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MONTANA/ENVIRONMENTAL PROTECTION AGENCY

COOPERATIVE AGREEMENT

Agreement on the Management and Administration

of Montana's Environmental Programs

July 1987 - June 1988

DRAFT

Agency
301 S. Park, Drawer 10096
Helena, Montana 59626-0096

EPA

This is the draft Montana/Environmental Protection Agency Cooperative Agreement with Enforcement Agreements for FY 88. This Agreement addresses environmental programs for the State of Montana.

We will appreciate any view or comment on the material you wish to offer until June 26, 1987. Send your comments to:

Environmental Protection Agency
Federal Building
301 S. Park, Drawer 10096
Helena, MT 59626

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Attachment

ATTACHMENT

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Approved:

The undersigned hereby execute this Cooperative Agreement on the Management and Administration of Montana's Fiscal Year 1988 Water Pollution Control, Safe Drinking Water, Underground Injection Control, Air Quality, Solid and Hazardous Waste, Superfund, Pesticides and Toxics programs. The enforcement agreements have been included as an integral component of this Cooperative Agreement.

STATE OF MONTANA

Ted Schwinden
Governor, State of Montana

Date

John J. Drynan, M.D., Director
Department of Health and
Environmental Sciences

Date

Keith C. Kelly, Director
Department of Agriculture

Date

ENVIRONMENTAL PROTECTION AGENCY

James M. Scherer
Regional Administrator

Date

John F. Wardell, Director
Montana Office

Date

TABLE OF CONTENTS

	Page
Executive Summary..(Introduction)	1
Highest Priority Objectives	2
Program Description and Work Plans	
Water	4
Drinking Water	18
Underground Injection Control	22
Construction Grants	25
Air	29
Solid and Hazardous Waste Management	38
Underground Storage Tank	40
Superfund	40
Toxics	50
Pesticides	53
Categorical Public Participation Emergency Response and Title III	 59 59
Quality Assurance	62
Program Budget	63
Cooperative Enforcement Agreements	64
Appendix A - National Pollutant Discharge Elimination System Program.	65
Appendix B - Public Water System Supervision Program	69
Appendix C - Air Program	70
Appendix D - Hazardous Waste Program	75
Appendix E - Pesticides Program	81

EXECUTIVE SUMMARY

INTRODUCTION

The goal of Montana's environmental health programs is to protect public health while sustaining a spirit of cooperation between environmental protection and resource development. Accomplishing this requires close coordination between the Departments of Health and Environmental Sciences (DHES) and Agriculture (DOA) for the state, and the federal government's Environmental Protection Agency (EPA).

Through agreements, research, monitoring, technical expertise and other areas of cooperation, the DHES, DOA and EPA are helping Montanans maintain a quality lifestyle. The Montana/EPA Agreement (MEA) contributes to this process by consolidating all narratives, work plans and enforcement agreements into one document, thus producing a concise document, and reducing paperwork and duplication of effort.

The MEA programs are comprised of DOA's pesticide program, DHES's air, water and solid and hazardous waste programs, and EPA's toxics and underground injection control programs.

The elements of the MEA include: (1) An overview of the state's environment, (2) identification of priority objectives, (3) strategies to accomplish priorities, (4) detailed work plans, activities and commitments and (5) cooperative enforcement agreements.

To better understand the programs, and what they plan to accomplish, each major area of environmental concern has a narrative discussion of its programs, followed by media work plans defining the proposed work.

HIGHEST PRIORITY OBJECTIVES

The State of Montana and the U.S. Environmental Protection Agency (EPA) Region VIII Montana Office reviewed the environmental programs and established the following "highest priority objectives." Although these objectives have been singled out as primary goals for the July 1987 - June 1988 time frame, the individual programs have many additional important goals that also must be addressed during this period.

1. The continued coordinated approach to investigate and correct environmental and public health concerns in the Clark Fork drainage.

2. Continuing efforts under the Resource Conservation and Recovery Act (RCRA) hazardous wastes program to issue land disposal permits to facilities in Montana. These permits are required to be issued by November 1988. Four facilities, Exxon, Conoco and Cenex (Billings area) and Burlington Northern (Paradise), are seeking land disposal permits.

3. Continuing efforts under RCRA to implement Facility Management Plans at sites in the state. These plans are being implemented at eight facilities:

   Exxon (Billings)
   Conoco Refinery and Landfarm (2) (Billings)
   Burlington Northern (BN) (Somers)
   BN (Paradise)
   Cenex (Laurel)
   Transbas (Billings)
   Montana Refining (Great Falls)

4. The negotiation of an underground storage tank cooperative agreement between EPA and the state. The cooperative agreement will enable Montana to receive federal funds to correct environmental and public health concerns caused by leaking underground storage tanks.

5. Continuing under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) to correct public health and environmental problems at Superfund Program hazardous wastes sites in Montana. The following sites will or are expected to receive funding:

   Anaconda Smelter (Anaconda)
   Silver Bow Creek (Butte area and Clark Fork between Warm Springs Ponds and Missoula)
   Milltown Reservoir (Milltown near Missoula)
   East Helena (East Helena)
   Libby Groundwater (Libby)
   Burlington Northern Site (Somers)
   Montana Pole Tie-treatment Facility (Butte)
   Idaho Pole Treatment Facility (Bozeman)

6. The continuation of efforts to protect public water supply systems.

7. Initiate efforts to develop a nonpoint source program. Nonpoint contamination of lakes and streams is a serious contamination problem in Montana. The 1987 amendments to the Clean Water Act established requirements to establish a nonpoint source program in states.

8. Continuing to conduct PM10 air quality monitoring and control strategies. PM10 is the particulates in the air inhaled into the lungs (less than 10 microns in size).

9. The continuation of efforts to implement an effective pesticides enforcement and certification program.

   A. Enforcement

      1) Pesticide cancellation compliance inspection,
      2) Drift from pesticide application,
      3) Wood preservative inspection and certification,
      4) Disposal of pesticides and pesticide containers,
      5) Pesticide misuse and pesticide contamination of groundwater,
      6) Worker and general public exposure, and
      7) Enforcement of illegal sales of restricted use pesticides to uncertified applicators.

   B. Certification

      1) Monitor commercial and private application programs.
      2) Review, in cooperation with EPA, the state's approved certification plan as it compares to the current state program.

PROGRAM DESCRIPTIONS AND WORK PLANS

Water

Water Quality Management Program

The State of Montana again refined its list of priority water bodies in Fiscal Year (FY) 1986. The state drew heavily on Montana data gathered in 1985 for the national Nonpoint Source Assessment coordinated by the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA). It also used a rigorous statistical evaluation of post-1983 data on STORET. One hundred and seven Montana streams or stream segments totaling 4,662 miles of man-caused water quality problems and 12 lakes with nearly 34,000 acres where uses are impaired by nonpoint sources of pollution were identified in this manner.

Montana's most serious surface water quality contaminants are 1) sediment/-turbidity, 2) salinity/dissolved solids, 3) heavy metals and 4) algal nutrients. Nonpoint sources account for 95 percent of the documented water quality problems in Montana, municipal sources for 3 percent and industrial sources for only 2 percent. An effort will be made in FY 1988 to prepare a more detailed assessment of nonpoint source water quality problems in accordance with Section 319 of the Clean Water Act.

Flathead Lake and the Clark Fork River will continue to be priority water bodies for monitoring and water quality protection in FY 19889. Flathead Lake became a priority in 1983 when a lake-wide algae bloom indicated accelerated eutrophication (nutrient enrichment) was taking place. Monitoring will help measure the effectiveness of a phosphorus control strategy implemented by the state in 1984.

The Clark Fork became a priority in April 1984, when the state issued a modified discharge permit to the Champion International (now Stone Container Corporation) paper mill near Missoula. Monitoring results will enable the state to assess water quality impacts from the paper mill discharge, municipal discharges and non-point sources along the river. Continued monitoring on the upper Clark Fork River, some of it in place for more than 10 years, will help evaluate the water quality effects of resumed mining in Butte and reclamation efforts under CERCLA (Superfund).

Principal non-point source assessment and control efforts in FY 1988 will include: 1) implementation of Section 319 of the federal clean water act; 2) development of a computerized water body tracking system; and 3) preparation of the 1988 Montana Water Quality (305b) report to EPA and Congress.

Wastewater Discharge Permit Program

Montana's Wastewater Surface Discharge Permit Program began in 1968. With passage of PL 92-500 (Water Pollution Control Amendments of 1972), a federal wastewater discharge permit program was also created. In 1974 Montana applied for and received authority from EPA to administer this program, thus minimizing a duplication of effort.

Tables #1 and #2 list the various categories of major and minor industrial wastewater discharges. Table #3 lists the number of facilities that presently have general wastewater discharge permits.

Table #4 lists the municipal discharges. Twenty-five of Montana's 26 major municipalities have treatment facilities capable of meeting secondary effluent limitations. (Wolf Point is constructing to meet secondary limits.) Major and minor wastewater treatment facilities are tracked for compliance. The municipal compliance strategy document is updated periodically by the state permits and construction grants sections.

Many of the communities meeting secondary discharge limitations still have treatment facility needs. Kalispell, Whitefish, Columbia Falls and Bigfork are working toward meeting limitations for total phosphorus. The phosphorus limitations were imposed to help slow the eutrophication process in Flathead Lake. Phosphorus removal should begin at these facilities (except for Kalispell) in FY 1988. National Secondary Standards now include the provision for relaxed bio-chemical oxygen demand (BOD) and total suspended solids (TSS) limits for certain lagoon and trickling filter facilities where water quality standards would not be affected by allowing the relaxed limits. This may allow some of the smaller communities to meet effluent limitations with a minimum amount of capital improvements. Some communities are still working toward meeting fecal coliform and/or chlorine limits.

Table 1. Major Industrial Wastewater Discharge Permittees

Category	Total No.
Sugar Refining	2
Coal Mines	3
Smelter	2
Plywood Mills	2
Oil Refineries	5
Paper Mills	1
Generating Plants	2
Ore Mining	1
Railroads	1
Totals	19

Table 2. Minor Industrial Wastewater Permittees

Category	Total Number
Oil Wells	17
Mines	115
Smelters	1
Railroads	4
Lumber & Plywood Mills	1
Sand & Gravel	5
Slaughter Plants	2
Cement Plants	2
Chemical Plants	4
Generating Plants	1

Industrial Sewage Treatment Plants	7
Miscellaneous	15
Totals	174

Table 3. General Permit Summary

General Permit Category	Effective Date of General Permit	Authorizations Issued Total	Currently Active
Suction Dredge*	6/3/83	89	80
Fish Farm	11/19/84	15	15
Construction Dewatering	7/14/83	87	16
Sewage Lagoon	6/14/83	23	23
Feed Lot	7/1/84	44 (large)	44 (large)
		43 (small)	43 (small)
Totals		301	221

*Considered by EPA to be issued under 404 rather than 402 authority.

Table 4. Municipal Wastewater Discharges with Individual Montana Pollution Discharge Elimination System (MPDES) Permits

	Major	Minor
Wastewater Treatment Facilities Municipal, State & Federal	26	64
Municipal Water Treatment Facilities/ Wastewater Disposal	--	10
Totals	26	74

Specific priorities for FY 1987 include:

- Issue, reissue or modify major permits ensuring that water quality standards are met; toxic criteria limitations and pretreatment requirements are imposed and residual wastes handled appropriately (input from Solid and Hazardous Waste Bureau (SHWB) to be provided), and appropriate effluent limitations and self-monitoring are provided.
- Reduce backlog of 25 minor permits.
- Pursue general permit issuance for such categories as water from oil wells and pump test discharges.
- Process 3(a) authorizations and Water Quality Standards (401) certifications.
- Provide timely complaint response and follow-up.
- Provide compliance monitoring annually for all major permittees, completing form EPA-3560-3 for each and entering data into Permits Compliance System (PSC).
- Compliance monitor minor dischargers where self-monitoring data is suspect. A 104(b)(3) grant will be used for increased compliance monitoring of minor dischargers.
- Continue the quality assurance (QA) program to assure accurate self-monitoring data for the MPDES program.
- Pursue a vigorous compliance inspection program on mining activities during the summer months when activity is at its peak and gather information concerning impacts on water quality.
- Provide appropriate enforcement and report to EPA, giving priority to major dischargers and federally-funded minor municipalities.
- Provide timely review and appropriate notification on self-monitoring information. Enter Discharge Monitoring Report (DMR) data into PCS on a timely basis.
- Finalize the revised National Pollution Discharge Elimination System (NPDES) delegation agreement.
- Finalize revision of MPDES regulations.
- Implement a biomonitoring program for major dischargers.

Groundwater Pollution Control Program

State groundwater regulations, called the Montana Groundwater Pollution Control System (MGWPCS), were promulgated by the Board of Health on October 29, 1982.

The MGWPCS program primarily addresses the protection of shallow groundwater aquifers from potential pollution sources, such as surface impoundments, waste piles, landfills, disposal systems and spills of various contaminants. Any of these potential pollution sources (except spills) which are not reviewed and approved, or required to obtain an operating permit under other regulations, are required to apply for and obtain a groundwater pollution control permit as outlined under MGWPCS. The WQB permits section reviews these applications and follows through the administrative procedures of issuing and managing the permits, including compliance monitoring, review of self-monitoring, etc.

For similar sources that are reviewed and approved and/or permitted under other regulations, the MGWPCS rules do not require additional permitting; compliance is required with the state's groundwater quality standards as outlined under MGWPCS. Compliance with the standards is then addressed within the other agency approval or permit. Examples of these joint reviews are Major Facility Siting Act (MFSA) projects under the jurisdiction of the Department of Natural Resources and Conservation (DNRC), mining and milling operating permits, administered by the DSL, subdivision and other public or private waste treatment systems approved by the DHES and landfills and other solid waste disposal sites licensed by the DHES.

In the last few years, groundwater contamination by petroleum fuels has evolved into the WQB's number one problem in groundwater pollution control. It has required more staff time than any other aspect of the groundwater pollution control program. Recent federal and state legislation and regulations provide authority to the DHES for the implementation of an underground storage tank (UST) program. The SHWB is accomplishing the registration and tracking, and the WQB the subsurface investigations as leaks or spills occur. The SHWB has provided funding through the UST program for a FTE position in the WQB groundwater pollution control program. This position is responsible for investigation and follow-up of spills and leaks revealed through the UST program. A computer listing system for tracking and compiling data from compliance inspections and complaint investigations has been implemented. The WQB is providing a person half-time for liaison with the DSL. This should improve coordination in reviewing the water quality aspects of mining activities.

Other portions of the program which require significant resources are: review and processing of permit applications under MGWPCS (almost 40 have been done to date), compliance tracking and inspection of existing permittees, joint review of applications for permits or approvals under other regulations (normally about ten per year are done) and numerous complaint investigations involving potential groundwater pollution.

Priorities for FY 1988 include review and issuance of permits under the MGWPCS program and maintenance of groundwater complaint investigations. The Staff will continue to review the current status of existing MGWPCS permits. Several contracted studies are being proposed: DRASTIC mapping of Missoula Valley, groundwater impacts of ore processing operations, pesticide impacts on alluvial aquifers, nitrate contamination of Evergreen alluvial aquifer. Consideration is being given to adding an additional FTE in the groudwater program.

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
WATER POLLUTION CONTROL							
I. Administration			2.5	.12			
A. Provide general program direction and supervision and development of staffing and budget needs.							WQB
B. Administrative support.							WQB
C. General policy guidance and periodic review of program outputs.							WQB, EPA
II. Wastewater Discharge Permit Program			4.8	1.06			
A. Issue, reissue, or modify within 6 months of application or expiration date major, minor, and general permits ensuring that water quality standards are met, toxic criteria limitations and pretreatment requirements are imposed, residual wastes are handled adequately and appropriate effluent limitations and self-monitoring are provided. Montana EPA Office issues permits on Indian Reservations.	9 majors	19 majors					WQB,EPA
B. Develop and implement a biomonitoring program including the following required elements: two species testing of all major dischargers, mandatory implementation of toxics reduction evaluation if toxicity is detected, and incorporation of an enforceable limit on toxicity in the permits.	10/1/87						WQB, EPA
C. The State will maintain laboratory capability to conduct biomonitoring inspections and to evaluate discharger's biomonitoring procedures.							WQB
D. Develop and implement annual compliance inspection plan.		6/1/88					WQB
1. All major municipal facilities will be inspected (compliance monitored or O&M inspected) at least annually with composite sampling at mechanical plants whenever possible.	10	26					WQB
2. All major industrial facilities will be compliance monitored (sampled or evaluated) at least annually.	6	19					WQB
3. Minor municipal and industrial facilities will be inspected when problems are suspected and as time permits. EPA conducts inspections on Indian Reservations.							WQB, EPA

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIBLE AGENCY
E. Provide appropriate enforcement actions in accordance with State/EPA Enforcement Agreement and State Enforcement Management System (EMS) document.							WQB, EPA-MT&Denver
1. Evaluate need to update the State/EPA Enforcement Agreement.		6/30/88					WQB, EPA
2. Evaluate need to update the EMS document.		6/30/88					EPA
3. Provide quarterly noncompliance reports for majors using national definition of significant noncompliance.	2	4					WQB
4. Provide summary of all formal enforcement actions taken at the end of each quarter.	2	4					WQB
F. Provide review and appropriate notification on self-monitoring information as reports are received. EPA-Montana reviews self-monitoring reports for Indian Reservation facilities for which responsibility has not been delegated. Conduct joint State/EPA monthly DMR review meetings.	Ongoing 6	 12					WQB, EPA WQB, EPA
G. Provide semi-annual compliance reports for completed PL 92-500 funded minor POTWs.	10/1/87	4/1/88					WQB
H. Jointly monitor (audits and inspections) approved local pretreatment programs.	6	6					EPA, WQB
I. Pursue delegation of pretreatment program during FY 88 such that delegation occurs by 10/1/88. EPA continues to provide technical assistance. Schedule for interim steps to delegation to be developed by 10/1/87.							WQB, EPA MT& Denver
J. Investigate complaints of illegal discharges and possible violations of water quality standards and provide follow-up.	Quarterly Review	Quarterly Review					WQB, EPA
K. Continue implementation of the municipal compliance strategy such that all facilities are in compliance by 7/1/88. Montana EPA prepares quarterly status reports.	2	4					WQB, EPA EPA
L. Provide copies of all file documentation for major permits to Montana Office.	As Required	As Required					WQB, EPA
M. Follow up on the most significant problems (<75% acceptable rating) identified through the DMR QA program and provide annual report to EPA. The results of this program will be utilized as a tool in selecting inspection candidates.		2/15/88					WQB
N. Develop a written agreement for management of PCS which defines respective responsibilities and procedures for achieving the National PCS Policy.	10/1/87						EPA, WQB

ACTIVITY/OUTPUT	MILESTONE		RESOURCES				RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	
O. State program overview, policies, procedures and output reviews. Complete revision of the NPDES delegation agreement, State implementing regulations, and program description during FY 88.	9/30/87						EPA, WQB
III. Wasteload Allocation/Total Maximum Daily Loads							
A. Submit revised draft document describing procedures and processes for performing WLA/TMDLs (part of WQS activity).	7/1/87						WQB
B. Provide comments on draft document.	9/1/87						EPA
C. Submit final document on water quality standards implementation.	12/31/87						WQB
D. The State will develop, and EPA will review, within 30 days of receipt, individual WLA's until the State WLA process has been approved by EPA. Once the process is approved, EPA reviews selected priority WLA's.	12/31/87						WQB, EPA
IV. Toxic Control Program							
A. During development of the water quality standards implementation document referenced in Section III, each of the action items contained in the draft Montana Toxics Control Program review letter from Headquarters EPA dated March 13, 1987 will be addressed. Where additional time is needed to adequately address a specific action item a schedule for followup work will be included in the document.	12/31/87						EPA

ACTIVITY/OUTPUT	MILESTONE		RESOURCES				RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	
WATER QUALITY MANAGEMENT							
I. Administration							
A. Provide general program direction, administrative and supervisory support to the WQ Management Section.	Ongoing	Ongoing					WQB
B. Meet to discuss program accomplishments and to identify and report progress.	Quarterly	Quarterly					WQB, EPA
C. Prepare a program oversight report on WQM activities.		1/88 7/88					EPA WQB
D. Develop 205(j)(5) workplan.	7/15/87						EPA
E. Provide 205(j)(5) funds to State.	7/31/87						
II. Water Quality Assessment/Planning/Reporting	Mid-Year Review	EOY Review					
A. Maintain a list of priority water bodies for use in reaching decisions which result in the greatest water quality and public health benefits.							WQB
B. Initiate development of Waterbody System (WBS) as WBS information is developed by EPA. (Also noted under Data Management).							WQB, EPA
C. Prepare outline and work assignments and schedule for 1988 305(b) report including Clean Lakes Classification Survey.	9/30/87						WQB
D. Prepare and submit draft 1988 305(b) report.		3/1/88					WQB
E. Review and comment on draft 1988 305(b) report.		3/15/88					EPA
F. Submit final 305(b) report.		4/1/88					WQB
G. EPA provides final 319 Concept Paper to State.	7/15/87						EPA
H. Prepare draft 319 Nonpoint Source (NPS) Assessment Report (including stream segments with impaired uses, categories and subcategories of NPS pollution, process for BMP development, certification and approval, and State and local programs for NPS pollution control).	10/31/87						WQB, EPA
I. EPA review and comment on draft 319 NPS Assessment Report.	11/30/87						EPA
J. State submits final 319 NPS Assessment Report.	12/31/87						WQB
NOTE: Many water quality assessment or monitoring activities are also identified under item VI Monitoring.							

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
III. Nonpoint Source Pollution Control							
NOTE: Section 319 NPS Assessment Report Preparation identified under Item II Water Quality/Assessment/Planning/Reporting.							
A. Conduct 319 Nonpoint Source Program "kick-off" meeting with other State/Federal/local agencies, environmental groups, interested public, etc. (If not carried out May or June).	7/31/87						WQB, EPA
B. Revise NPS Assessment Report and Management Program Outline in response to interagency/public meeting and establish work assignments for preparation of Assessment Report and Management Program.	8/15/87						WQB, EPA
C. Prepare and submit draft NPS Management Program (including BMP Manuals by category, and 319 Program Plan.		1/31/88					WQB
D. EPA review and comment on draft NPS Management Program.		2/28/88					EPA
E. Conduct public hearing on Management Program.		2/28/88					WQB
F. Preparation of final NPS Management Program and Governor's Certification.		3/31/88					WQB
G. Prepare Federal FY 88 grant proposal for 319 funds.		4/30/88					WQB
H. Approve NPS Management Program and award 319 funds.		6/30/88					EPA
IV. 404 Permit Review and 401 Certification	Quarterly Review	Quarterly Review					
A. Review proposed 404 permit applications. As necessary, establish conditions for 401 certification to prevent WQS violations or deny certification for projects that will violate WQ standards. Conduct inspections as necessary. EPA will provide 401 certification for proposed 404 permits on Indian Reservations.							WQB, EPA
B. States and EPA will recognize that wetlands are waters of the U.S. and as such, will receive the same level of protection from discharges of pollutants pursuant to the Clean Water Act.							WQB, EPA
C. Assist with the coordination of 124, 310 and 404 permit programs.							WQB
D. Issue 3(a) authorizations for short-term activities which exceed turbidity standards. Conduct inspections as necessary to verify compliance.							WQB

	ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
E.	Review and comment on proposed 404 permits to assure that projects are compatible, or that appropriate conditions are included to insure compliance with 404(b)(1) guidelines. Conduct inspections as necessary.							EPA
F.	Develop a plan for protecting wetlands from discharges of pollutants through application of the NPDES program, the 404 program, 401 certification, and other programs.							EPA, WQB
G.	Participate in Interagency Highway/Wetlands Evaluation and Mitigation effort promoted by Federal Highway Administration.							EPA, WQB
H.	EPA will produce video tapes regarding the creation of wetlands near Bernice and the removal of sediment from Bison Creek.				0.05		$ 2,500	EPA
	TOTAL							
V.	Water Quality Standards							
A.	EPA will provide specific language recommendations for revisions to WQS and nondegradation rules (including numeric criteria for toxics compliance with antidegradation, conventional pollutants.	7/1/87						EPA
B.	State will develop Citizens Advisory Council to obtain public input for revisions to WQS and Nondegradation Rules and submit proposed revisions to Water Pollution Control Advisory Council.	7/31/87						WQB
C.	State will submit proposed WQS and nondegradation revisions to Board of Health.	9/11/87						WQB
D.	State will submit Use Attainability Analyses for E classified streams (if fishable/swimmable use designations not included in WQS revisions).	9/30/87						WQB
E.	State will submit second draft of WQS Implementation Procedures document (including narrative to implement "free from toxics" no lethality in mixing zones, explanation of variance/temporary modifications, WLA/TMDL procedures, etc.).	7/1/87						WQB
F.	EPA will review and comment on second draft of WQS Implementation Procedures document.	9/1/87						EPA
G.	State will submit final WQS Implementation Procedures document.	12/31/87						WQB
H.	State will submit revised WQS and nondegradation rules to EPA.	12/31/87						WQB

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIBLE AGENCY
I. EPA approval/disapproval of Montana WQS and Nondegradation Rules.		2/28/88					EPA
VI. Monitoring							
A. Clark Fork River - Fixed Station	Mid-Year Review	EOY Review					WQB
1. Continue 16 times yearly sampling and chemical analysis at 10 stations above confluence with Little Blackfoot River. Collect and analyze periphyton samples at all 10 stations once. (Funding source: 205(j)).							
2. Continue 16 times yearly sampling and chemical analyses 20 stations below Little Blackfoot confluence. Collect samples at all 30 stations once. (Funding source: RIT).							
3. Prepare report on FY 1987 monitoring to Montana Department of Natural Resource and Conservation.	11/87						WQB
4. Summarize results to date for 1988 305(b) report.		3/88					WQB
B. Continue periodic sampling to check the effectiveness of and make adjustments to the Freezeout Lake/Priest Butte Lakes/Teton River WQM Plan.							WQB
C. WWTP "Before-and-After" Studies.							
1. Complete sampling and data analyses for the "after" phase of monitoring on Hot Springs Creek and Big Springs Creek.							WQB
2. Prepare project reports for Hot Springs, Lewistown and Hamilton WWTPs and summarize results in the 1988 305(b) report.							WQB
D. Prepare report on bioassays conducted in May/June 1987 at the Missoula WWTP.							EPA
E. Continue support for and coordination of Upper Yellowstone River interagency suspended sediment/turbidity monitoring.							WQB
F. Continue to support monitoring of Flathead Lake and tributaries by the UM Yellow Bay Biological Station. Work with monitoring agencies to evaluate and present results.							WQB
G. Continue periodic sampling of Stanley Creek and Lake Creek to assess ASARCO mine impact.							WQB
H. Evaluate the need to begin a "before-and-after" study on the Flathead River to assess impact of new discharge location for Kalispell WWTP.							WQB

	ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
I.	Assess water quality benefits to Prickly Pear Creek resulting from Abandoned Mine Land Reclamation Program activities.							WQB
J.	Conduct a 24-hour study of dissolved oxygen in the Clark Fork River during low summer streamflows and high summer temperatures at locations of heavy cladophora growth.							WQB
K.	Conduct additional monitoring/surveillance in support of permits, construction grants, WQS, WLA and UAA studies.							WQB
VII.	Data Management	Ongoing	Ongoing					
A.	Continue data handling, storage and reporting activities to support water quality program needs including the annual updating of the data and input all data from monitoring activities into STORET.							WQB
B.	Process water quality data as submitted by the State into STORET.							EPA
D.	Develop data management system for WQB biological data.		As Time Allows					WQB
E.	Maintain paper (basin) files of ambient WQ data.							WQB
F.	Initiate development and use of Waterbody System WBS).							WQB, EPA
	TOTAL					85,386	387,016	

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
GROUNDWATER POLLUTION CONTROL PROGRAM (excludes UIC)			1.5	.1			
A. Issue, reissue or modify MGWPCS permits.	3	6					WQB
B. Joint review of DSL operating permits, exploration licenses, MFSA projects, Superfund projects, wastewater system plans, subdivision projects, SHWB landfills.	5	10					WQB
C. Provide sampling or evaluation inspections on permittees, joint inspections for groundwater compliance on other agency projects. Coordinate with MBMG Groundwater Information Center.	15	30					WQB
D. Investigate complaints of groundwater pollution. Provide recommendation for enforcement and cleanup follow-up. Coordinate with SHWB on underground tank program, including petroleum fuel spills.	Quarterly Review	Quarterly Review					WQB
E. Monitor progress of investigative and clean-up work being performed at 14 Burlington Northern Railroad fueling and roundhouse sites statewide.							WQB
F. Continue tracking proposed contract studies: DRASTIC Mapping of Missoula Valley, Groundwater Impacts of Ore Processing Operations, Pesticide Impacts on Alluvial Aquifers, Nitrate Contamination of Evergreen Alluvial Aquifer.							WQB
TOTAL					-0-	161,606	

NOTE: All dollar amounts are not known at this time. Final agreement will have all known resources.

Drinking Water

The first Montana Public water Supply law was enacted in 1907. This law was revised in 1977, and again in 1979, to enable Montana to receive and retain delegation for the administration of the "Federal Safe Drinking Water Act" (PL 93-523). Prior to receiving primacy under the Safe Drinking Water Act, Montana's program covered about 250 community water systems. The present program regulates all systems which have at least 10 service connections or serve 25 people per day for 60 or more days per year. That inventory of public water systems varies in number but currently includes 712 community systems and 1,564 noncommunity systems.

From a quality standpoint, the state's drinking water is considered generally good in western Montana. Many supplies in eastern Montana, particularly those using groundwater, would be considered poor. The problems with these supplies are generally aesthetic, and include high TDS, sulfates, sodium, iron and manganese. Some of the surface water supplies in the western part of the state still use the surface sources without filtration and occasionally have turbidity problems, but several new plants have been constructed in the past few years with technologies that eliminate the major turbidity problems.

Montana has about 10 community supplies that exceed 4.0 mg/l in fluoride. These systems are required to give public notice and provide bottled water for those who prefer it. The department has also initiated legal action against one supply which exceeds the maximum contaminant limit (MCL) for nitrate. That supply is now under a court ordered compliance schedule to provide an alternate source of water for its users. Most of the needed funding for this project has been obtained and completion is expected within the next 12 months.

Unfiltered surface water has been one of the state's major concerns for the past several years. Outbreaks of giardiasis have been experienced here as in other states, and the public water supply program is taking action to see that the risk from Giardia is minimized. The public water supply (PWS) Program has hired a person specializing in the area of Giardia filtration and control, and is having that person investigate surface sources to determine where the Giardia threat is present. Each surface system is looked at on an individual basis and recommendations are made to assure safe water is delivered to the consumers. When this system is unable to assure removal and/or inactivation of Giardia cysts, boil orders or health advisories are issued by the department. The work is done on supplies that are filtered as well as unfiltered supplied and infiltration galleries.

The majority of the state's community public water supplies are regularly monitoring for bacteriological quality. Noncommunity supplies are doing a fair job, and are continually monitored by the state.

The newly acquired system of IBM computers (PCs) is now on line and is becoming more and more useful. The program has recently geared it up to automatically determine compliance with the bacteriological monitoring requirements and to send out reminder letters to those systems that have

failed to sample. This is a procedure that hasn't been performed for the past couple of years and we expect it to improve compliance significantly.

The MCL for coliform bacteria is rarely exceeded, but when it is, the program's engineers work with the PWS personnel to identify the problem and solve it. Several groundwater supplies with bacterial problems have had to put in full-time disinfection over the past 2-3 years.

Priority objectives for FY 1988 include:

- Improve compliance of public water supplies for all of the requirements of the Safe Drinking Water Act.
- Monitor and enforce the public notice requirements.
- Improve the bacteriological quality of those PWS's that have coliform problems or high standard plate counts.
- Establish compliance schedules for those systems that need improvements to meet MCL requirements.
- Conduct field investigations at 70-80% of the state's PWS's.
- Provide technical assistance regarding operation and maintenance to PWS's.
- Provide training and certification of operators.
- Review plans and specifications for construction on PWS's.
- Improve plan review procedures and policies and rewrite regulations as needed.
- Provide certification for laboratories.
- Investigate all PWS's that could be at risk for Giardia, do evaluations and make recommendations to see that the risk is minimized.
- Optimize the use of the PC Network.
- Investigate all unfiltered surface water sources to determine whether or not they will qualify for exceptions to the filtration requirements of the 1986 SDWA Amendments.
- Prepare to make the necessary rule changes to maintain primacy.
- Begin planning for the Wellhead Protection Program.

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIBLE AGENCY
DRINKING WATER PROGRAM - PUBLIC WATER SYSTEMS							
I. Administer program according to the Federal SDWA, State statutes and regulations, and cooperative agreement regulations and conditions.			.85	.6			
A. Provide quarterly reports of violation data to EPA within 60 days of the end of each calendar quarter in the format requested by EPA.	2	4					WQB
B. Participate in program evaluation/oversight performed by EPA.		1					WQB
C. Administer local health department contracts for inspections of public water supplies.		21					WQB
D. Identify nontransient, noncommunity public water supplies.	9/30/87						WQB
E. Identify community water systems with potentially corrosive water and advise them to give notice as required by Section 1417 of the SDWA. Provide technical assistance as resources allow.		6/1/88					WQB
F. Work with Plumbing Board and Department of Commerce Building Codes Division in implementing lead ban.		6/1/88					WQB
G. Prepare for adoption of VOC regulation and filtration regulation.		6/30/88					WQB
II. PWS surveillance and technical assistance.			1.95	.05			
A. Conduct inspections of PWS's and make written reports.	Semi-Annual Review	EOY Review					
1. WQB staff		90					WQB
2. Contracted sanitarians		600					WQB
3. Contracted individual(s)		300					WQB
B. Investigate suspected waterborne disease outbreaks.		By Incident					WQB
C. Investigate suspected incidences of underground sources of drinking water contamination.		By Incident					WQB
III. Review plans and specifications for all new and/or modified PWS's.		120	2.25				WQB
IV. Train and certify water system personnel.			1.50				WQB
One-week course	1						
One-day seminars	5	5					
Certification tests given	1	1					
Onsite training for plant operators							

WATER QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
V. Provide appropriate compliance activities and enforcement action in accordance with State/EPA Enforcement Agreement.	Semi-Annual Review	EOY Review	1.35				WQB
VI. Maintain records essential for PWS program including inventory of all PWS's.	Semi-Annual Review	EOY Review	1.6				WQB
VII. Provide laboratory capability to conduct analysis necessary for the program.	Semi-Annual Review	EOY Review					WQB
VIII. Recertify private laboratories who do drinking water analyses, as necessary.		EOY Review					WQB
IX. If funds are available, perform VOC monitoring for PWS's at vulnerable sources and pursuant to Federal regulations.		10					WQB
TOTAL			9.5	.65	138,787	416,360	
See Quality Assurance Workplan for all water program commitments.							
WELLHEAD PROTECTION PROGRAM							
1. Negotiate workplan and specific program objectives upon receipt of guidance from EPA.	10/1/87				11,111	100,000	WQB

Underground Injection Control

The purpose of the Underground Injection Control (UIC) program is to prevent the contamination of underground sources of drinking water. Neither the DHES nor the Board of Oil and Gas Conservation demonstrated an interest in assuming responsibility for the regulation of injection activities under the Safe Drinking Water Act. While the intent of the Act was to encourage states to assume primary enforcement authority for the UIC program, in those cases where the state is unable to meet the program requirements or where a state does not apply for the program, the Administrator of EPA must prescribe a program for that state. This was done by EPA, and became effective in June 1984.

EPA is implementing the UIC program through the Denver Regional Office and the Montana Office. The Regional Office is responsible for program direction, administrative and technical functions related to permit issuance and compliance monitoring. The Montana Office has the lead responsibility for field activities, compliance inspections and emergency response. The permit work load is shared between the two offices, with the final permits and all administrative activities associated with the permitting activities being the responsibility of the RO.

Injection activities have been divided into five classes. In general, the classification of wells is as follows:

Class I - Wells used by municipal and industrial dischargers to dispose of waste materials below the lowermost formation containing an underground source of drinking water.

Class II - Wells which inject fluids associated with the recovery of oil and natural gas. This includes brine waste injection, enhanced recovery of oil or natural gas, and storage of hydrocarbons.

Class III - Wells used for the extraction of minerals.

Class IV - Wells used to dispose of hazardous waste materials into or above a formation containing an underground source of drinking water.

Class V - Wells not included in Classes I - IV including air conditioning return flow wells; cesspools, drainage wells used for storm runoff, etc.

To date, no Class I, III or IV injection wells have been identified in Montana. Only Class II wells are presently being permitted.

Under the regulations, all new injection wells must have a permit from EPA before they can begin injection. "New" is defined as any injection well that goes into operation after June 1984. In addition, all salt water disposal wells that were in existence as of June, 1984 must also be permitted before June 1988. The permitting of these wells is being done in a phased manner, with about 25 percent of the existing wells proposed to be permitted each year. The existing enhanced recovery wells are not required to obtain a permit, but are still required to meet all requirements of the regulations.

All injection wells must meet certain construction requirements, demonstrate mechanical integrity (have no significant leak in the casing, tubing or packer and have no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore), meet certain operating, monitoring and reporting requirements, and have an approved plugging and abandonment plan. In addition, the company operating the injection well must meet the financial responsibility requirements necessary to plug and abandon the well.

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
UNDERGROUND INJECTION CONTROL (UIC)							
I. Permit Issuance							
A. Review applications for and issue permits for Class II wells and/or fields.		46		4.65			EPA
II. Surveillance and Investigation				1.0			
A. Assure compliance with permit and other regulatory requirements through compliance inspections.		600					EPA, MO
B. Notify owner/operator and require mechanical integrity testing.		150					EPA, RO
C. Witness required mechanical integrity testing.		40					EPA, MO
D. Review operator supplied compliance reports.		850					EPA, RO
III. File Reviews				.75			
A. Review files for rule authorized wells.		200		.8			EPA, RO
IV. Administration							
A. Do annual report as required by 40 CFR 144.8(b).		3/88					
TOTAL				7.2	0		

NOTE: All milestones are estimates. They will be modified after September 30, 1987 to better reflect total EPA commitments.

Construction Grants

A federal grant program was initiated in 1956 to assist municipalities in the construction of sewage treatment facilities. Originally the state assisted the EPA and predecessor agencies in administration of this program by establishing needs and priorities, reviewing project applications, and preliminary and final plans. In recent years, administration of the program has been delegated to the state with EPA assuming an oversight role.

An annual priority list is developed by the WQB to rank projects and determine which communities will receive grant assistance. The priority system considers impairment of classified water uses from existing municipal pollutant discharges, as well as the extent of surface or groundwater degradation and associated public health concerns.

A shift in responsibility to states and municipalities for financing, building and replacing sewage treatment facilities began with the 1977 Amendment to the Clean Water Act. The federal role was further reduced by the 1981 Amendments which reduced the federal grant share, cut the federal annual authorization in half and restricted eligible funding categories.

The Water Quality Act of 1987 completes the transition to full state and local responsibility. The grants program will continue through fiscal year 1990 with a declining grant appropriation beginning in 1989. The 1987 Amendments allow for creation of a state revolving loan fund capitalized with federal grants to provide loans and other financial assistance to municipalities for construction grants are authorized through 1994. The State of Montana will establish a revolving loan program with the intention of meeting the transition schedule requiring mandatory appropriations to the revolving fund in fiscal year 1989.

The other changes to the Construction Grants PRogram implemented by the 1987 Amendments are relatively minor. Design/build projects are now allowed in the grant program whereby a grantee can contract for design and construction services with one party. The procedure should reduce review requirements, completion time, and overall costs. The state will maintain efforts towards completing on-going grant projects and prioritize those projects subject to EPA's National Municipal Policy. Emphasis will be placed on sound construction management of projects and achievement of project performance standards. Concepts developed through the 194 (G)(1) grant will be utilized to evaluate treatment facilities' ability to maintain compliance.

Montana will assist EPA in meeting EPA's water accountability system to the extent resources allow. Consistent funding is critical in meeting work plan goals.

Contact Persons:

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EPA Montana Office (406/444-5486)
Dick Montgomery, Programs Branch Chief

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIBLE AGENCY
CONSTRUCTION GRANTS							
I. Participate in Regional Construction Grants Oversight/Office of Water Accountability Systems.			8.3	1.2		357,222	WQB, EPA
A. Montana will submit detailed workplan containing core elements of the program including quantitative estimates of performance per Regional Construction Grants Oversight System and EPA's specific guidance by October 15, 1987. A draft workplan will be submitted by July 15, 1987. EPA will provide specific guidance to the states on the workplan by June 1, 1987. Upon acceptance by EPA it will become part of the SEA.							WQB
B. Montana will carry out the Construction Grants Program in accordance with the 205(g) Delegation Agreement and the annual workplan. The Region will conduct all non-delegated functions consistent with these agreements.							WQB, EPA
C. Implement changes resulting from the Water Quality Act of 1987 including modifying the Delegation Agreement in a timely manner.							WQB
D. Participate in the Needs Survey with emphasis on the water quality component.							WQB
E. Implement the sludge management program regulations.							WQB
F. Ensure individual project decisions are consistent with sound sludge management practices.							WQB
G. Montana will work towards completion of construction grants projects in accordance with EPA's National Municipal Policy.							WQB
H. Montana will continue to work with EPA in implementing the Operations Management Evaluation Program.							WQB, EPA
I. Montana, with EPA guidance, will develop and begin to implement a strategy to provide small community outreach no later than December 1987.							WQB, EPA
TOTAL			8.3	1.2		357,222	
II. Operation and Maintenance/Operator Training			.8 Also Utilize Resources in Drinking Water and Construction Grants	.1			WQB
A. Conduct 7500-5 on-site inspections, or the equivalent, using State inspection forms. Publically owned wastewater treatment works will be inspected at least once every three years.	25	50					
B. Publish Big Sky Clearwater.	8/87	2/88					WQB
C. Conduct annual operators school at Montana State University.	9/87						WQB

	ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
D.	Coordinate and monitor 104(g)(1) grants program and consider development of proposal.							WQB
	1. Complete selection of facilities.	6/87						WQB/NMC
	2. Complete CPE's.	9/87						WQB/NMC
	3. Complete CCP's.		6/88					WQB/NMC
	4. Prepare final report.		6/88					WQB/NMC
E.	Develop statewide operator training strategy; this may include consideration of 109(b) facility.		12/88					WQB/NMC
F.	Review progress, provide assistance as requested in the conduct of the 104(g)(1) grant activities.	Quarterly	Quarterly					EPA RO
G.	Issue certification licenses to operators and give examinations to new operators.							WQB & Water & Wastewater Operator Certification Board
	1. Licenses issued.		600					
	2. Exams given.		150					

Air

The Big Sky Country is truly what its name implies, yet there are places where the quality of air is a fragile resource. The plains east of the Rocky Mountains provide few obstructions to the sea of air that flows across the land, but in western, southern and central Montana, where various mountain ranges form valleys, air sometimes is trapped in layered inversions, causing degradation.

In addition to inversions and natural sources of contamination, man also plays a part in altering air quality. In urban areas throughout the state, such things as street dust, smoke from wood stoves and industrial emissions contribute to lowering air quality and visibility. In rural areas the largest contributors to air quality degradation are unpaved roads and mining operations.

Montana's air quality program can be divided into four parts: permits, inspections and enforcement, implementation plans, and air quality surveillance. The combination of these activities provides for a coordinated and comprehensive program of monitoring, problem correction, problem prevention and enforcement.

In order to prevent future air quality problems, Montana relies primarily on its permitting program. This program requires that all significant sources of air pollution must obtain a permit prior to construction of the facility. Montana requires a permit for any source which has the potential to emit more than 25 tons per year of any air pollutant (except lead - 5 tons/year). To augment this program and to provide national consistency, Montana has also adopted the federally mandated Prevention of Significant Deterioration (PSD) rules. This program has EPA approval and operates in lieu of EPA. Some minor modifications to this rule are expected this year in order to reflect changes at the national level. More than 100 permits were processed by the Air Quality Bureau (AQB) last year which assured new sources will comply with various plans and standards.

One of the most difficult areas in air pollution control is to correct areas which exceed certain ambient air quality standards. This is usually accomplished by the development of plans for each area not in compliance with the standard. The sum of all of these plans, permit rules, emission standards, etc. is known as the State Implementation Plan (SIP). A SIP has been developed for each nonattainment area of the state. All are approved by EPA except Great Falls (carbon monoxide). Final approval of the Great Falls plan is expected in calendar 1987.

The particulate plan for Butte, however, will require some modification by the state. The plan has been executed correctly, but the sources of particulates have changed since the plan was developed (from mining related dust to wood stoves).

A plan to solve the ambient lead violations in East Helena was developed and approved in 1984. The final phases of the plan were implemented at the end of 1986. The state will follow closely the results of these efforts in order to determine if further reductions are necessary.

Ambient air quality monitoring is also an important part of any air quality program. Montana operates over 50 samplers throughout the state in order to adequately assess the air quality of the state. As the federal base grant continues to erode, however, a reduction in the ambient air quality network is likely. Montana's monitoring program requires the collection of high quality data. Montana is committed to using the EPA quality assurance criteria as a minimum. In some instances, internal QA requirements exceed those of the federal government. The monitoring network typically includes 17,000 laboratory analyses, 4,000 samples, and 180,000 hourly field values per year.

The exact monitoring network is reviewed each year. This review is conducted in a document entitled "Network Review" and is completed each summer. Montana will continue to conduct this review in accordance with EPA requirements.

As a means of determining compliance with emission standards by industrial facilities, the AQB conducts a regularly scheduled inspection program. If violations are found, then further enforcement action may follow. The options for enforcement include: requests for voluntary compliance, office conferences, hearings before the Board of Health and Environmental Sciences, Notice of Violation and Order to Take Corrective Action, and civil or criminal penalties. The follow-up enforcement for each violation is somewhat case-by-case, but follows the State/EPA Enforcement Agreement. This agreement is renegotiated each year and closely follows national guidance. In 1986, the AQB conducted over 140 field surveillance actions and issued several Notices of Violation and civil penalties.

Two additional activities will be addressed in 1988: air toxics and PM10. EPA considers addressing potential air toxics problems as a high priority. Montana will thus complete its emissions inventory of air toxics across the state and will implement the Multi-Year Development Plan as required. In addition, EPA is about to promulgate a new particulate ambient standard for those particles less than 10 microns in diameter (PM10). Federal law requires that the state adopt plans to attain this standard within 9 months of promulgation. The plans must demonstrate attainment with this standard no later than 3 years following EPA approval. The development of these plans will take an enormous amount of staff time.

Contact Persons:

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ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
AIR ACTIVITIES							
I. Point Source Compliance			4.90	.90			
A. Inspections and Emission Inventory							
1. State shall inspect each Class A-1 source and approximately 1/2 of Class A-2 sources each year. In addition to State inspections, EPA-Montana Office shall perform 12 facility overview inspections of Class A sources.	40	80					AQB, EPA
→ a. Develop a list of Class A sources not to be inspected annually (e.g., compressor stations).	9/87						
2. EPA shall inspect all major, regulated sources located on federally-recognized tribal lands.	1	4					EPA
3. Inspect asbestos demolition and renovation projects. Inspect 1 project by each active abatement contractor. Submit quarterly summary of asbestos notifications/ enforcement activity.	6	12					AQB, EPA
4. State shall provide EPA copies of all violation inspection reports within 10 days in accordance with the Enforcement Agreement.							AQB
5. Update the emission inventory for Class A-1 and A-2 stationary sources. Provide quarterly updates through the Emission Inventory System (EIS). Provide listing of portable sources in October. Place emphasis upon sources in Group I and Group II PM10 areas.	40	80					AQB
6. Review classification of Major Stationary Sources.		Update EIS					AQB
B. Enforcement							
1. State shall take formal enforcement action against significant A-1 and A-2 sources within 60 days following violation in accordance with the Enforcement Agreement. EPA may take formal enforcement action as specified in the Enforcement Agreement.		Monthly Summary of Actions					AQB, EPA
2. Utilize continuous emission monitors (CEMs) for enforcement purposes where not excluded from doing so by regulation or formal agreement. Set up a mechanism for entering excess emission report (EER) data into CDS/CEM subset.							AQB, EPA
3. Modify or reaffirm 1986 Enforcement Agreement as appropriate.	10/87						AQB, EPA

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
II. New Source Review			2.30	.40			
A. Process new source permits as required. Copies of permits will be sent to EPA.		Approximately 120					AQB
B. Develop preconstruction review requirements for Group III PM10 areas.							
III. SIP Activities			3.00	1.30			AQB
A. Prepare annual SIP progress report.		4/88					
B. SIP Revisions							
1. Develop SIP revisions as necessary within 9 months of promulgation of new or revised National Ambient Air Quality Standards.							AQB, EPA
a. Develop plans for attainment of PM10 standard when promulgated by EPA.	Months after promulgation	7/31/87					AQB
- Full SIP revision for Group I areas.							
--Develop a comprehensive emission inventory for each area.	3 mo.	10/31					
--Determine a design concentration for each area.	3 mo.	10/31					
--Submit a SLAMS network description	6 mo.						
--Develop a control strategy demonstration for each area.	7 mo.	2/28/88					
--Submit a draft plan to EPA.	8 mo.						
--Conduct public hearings in each area.	8 mo.						
--Receive State Board of Health approval.	9 mo.						
--Submit final plan to EPA.	9 mo.	[illegible] 1988					
- Committal SIP for Group II areas.							

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
2. Adopt new regulations and revise existing regulations as required to maintain delegation of Federal programs.							
a. NSPS (New Source Performance Standards)	Propose 7/87	Adopt 9/87					AQB, EPA
b. NESHAPs (National Emission Standards for Hazardous Air Pollutants)	Propose 7/87	Adopt 9/87					AQB, EPA
c. Change PSD rules to address mining fugitive emissions.	If Required						AQB, EPA
d. Approve New Source Review revisions adopted in response to deficiencies identified by EPA in July 11, 1984 Federal Register.	Adopted 1/87	Submittal 5/87 Approval 9/87					EPA
e. 40 CFR 51.19(e) Continuous Emission Monitoring requirements for specified existing sources.	Adopted 1/87	Submittal 5/87 Approval 9/87					EPA
f. Revise rules in response to requirements accompanying PM10 NAAQS.	As required						
g. Stack Height Rule - Regulations	Approval 10/87						EPA
- Demonstration	Submitted 6/86	Approval 10/87					AQB EPA
h. Visibility Rule - Phase I (Approved 5/86)							EPA
- Phase II	Submittal 8/87	Approval 10/87					AQB EPA
3. Review attainment status as appropriate.							AQB
a. Review Group II designations for PM10.		4/88					
4. Complete required SIP related studies.							AQB
a. Butte TSP source determination and strategy.	10/87						
b. Review regulations, emission inventories and transportation control strategies for any areas with continued violations of CO NAAQS.	10/87						

ACTIVITY/OUTPUT	MILESTONE THROUGH M10YEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
C. Ambient Air Quality Standard Attainment Planning							
Track TSP, SO_2, lead and CO approved implementation plans in nonattainment areas. Request redesignation to attainment as appropriate.							
1. Butte TSP Plan (submitted 2/10/83, held up by new violations, latest information submitted 5/7/86).							AQB, EPA
- Submit plan revision. (Part of PM10)	As required						
- Submit progress report.	12/87	6/88					
2. East Helena Pb Plan (attainment date 7/9/87).	Approved 7/9/84						AQB
- Review ambient lead data	9/87						AQB
- Decision to revise or not revise lead plan.	10/87						AQB
- Submit progress report.	12/87	6/88					
3. Great Falls CO Plan (proposed approval in FR 1/26/87).	Approve Action 7/87						EPA
- Submit progress report.	12/87	6/88					
4. Billings CO Redesignation (plan approved 1/16/86).							
- Submit progress report.	12/87	6/88					
- Propose new site location to EPA.	7/87						AQB
- Approve site location.	8/87						EPA
- Install new monitoring site and commence data collection.	10/87						AQB
- Submit progress report.	12/87	6/88					
5. Billings TSP Redesignation (secondary).	Collecting Data						AQB
6. Colstrip TSP Redesignation (secondary).	Collecting Data						AQB
7. Columbia Falls TSP Redesignation.	Collecting Data						AQB

	ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
	8. East Helena TSP Redesignation (secondary).	Collecting Data						AQB
	9. Great Falls TSP Redesignation (secondary).	Collecting Data						AQB
	10. Laurel SO_2 Redesignation.							AQB
	- Install and operate new monitoring site.	10/87						AQB
	11. Missoula CO Redesignation (plan approved 1/16/86).	Collecting Data						AQB
	- Submit progress report.	12/87	6/88					
	12. Missnula TSP Redesignation (plan approved 1/16/86).	Collecting Data						AQB
	- Submit progress report.	12/87	6/88					
IV.	Air Toxics			1.0	.10			AQB, EPA
	A. Revise multi-year development plan - Draft - Final		3/88 6/88					
	B. Complete toxics inventory and interpret results in order to identify problem areas.		4/88					
	C. Support National Air Toxics Clearinghouse.	Ongoing						
	D. Develop a toxics control program for East Helena if needed as identified in the FY 87 EPA funded LOE review of risks and controls performed by PEI, Inc.		1/88					
	1. Conduct formal review of report, recommending control strategies.							
	2. Identify needs for further study.							
	E. Develop toxics control regulations for high risk sources identified in inventory or otherwise (e.g., toxic VOCs, wood stoves, metals).	As required						
	F. Participate in intergovernmental emergency prevention and response efforts.	Ongoing						
	G. Review permitting regulations for possible inclusion of acute release provisions.		4/88					
	H. Participate in hazardous waste site programs where air quality issues exist.	Ongoing						

AIR QUALITY MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE		RESOURCES				RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	
V. Ambient Monitoring			5.35	.40			
A. Complete annual network review, including Statewide summary of NAAQS and MAAQS exceedances and violations.	Annual Report 7/87	7/88					AQB, EPA
B. Complete annual review of QA plan and standard operating procedures.	7/87	7/88					AQB, EPA
C. Quarterly reporting of NAMS/SLAMS data and precision and accuracy data.	Quarterly Reporting	Quarterly Reporting					AQB
D. Perform system audit of State ambient air monitoring program.		5/88					EPA
E. Continue implementation of PM10 Monitoring Network consistent with EPA regulations.							AQB
1. Continue monitoring at NAMS site.							
2. Complete network in Group I areas.							
3. Establish networks in Group II areas (based on nonattainment probability and population density).	As funds allow						
F. Complete annual SLAMS report.		6/88					AQB
G. Adjust reporting system to meet the Aerometric Information Retrieval System (AIRS) requirements. (Including documentation of exceptional events).		9/88					AQB
H. Submit annual revision of monitoring equipment needs priority list.	7/87						AQB
VI. Performance Evaluation			0	.20			
A. Perform FY 88 National Air Audit System Review.		5/88					EPA
Prepare report.		9/88					EPA
B. Resolve deficiencies discovered previous NAAS report.							AQB, EPA
1. Implement CEM requirements of 40 CFR 51.19 affecting specified existing sources.							AQB
a. Montana Power Company Corrette Plant opacity	In place						
b. Exxon FCC Unit opacity		1/88					
2. Continue development of source test protocol requirements and implement those available.							AQB

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	RESOURCES WORKYEARS STATE	RESOURCES WORKYEARS EPA	RESOURCES DOLLARS STATE	RESOURCES DOLLARS EPA	RESPONSIBLE AGENCY
3. Review regulations and procedures of local air pollution agencies to determine consistency with State and Federal requirements.							AQB, EPA
a. Propose review plan.	9/87						
b. Semi-annual status report.	12/87	6/88					
C. Resolve deficiencies discovered in FY 88 NAAS review.		FY 89					AQB, EPA
VII. Miscellaneous Projects and Initiatives	As Required		.70	.30			
A. Report status of planning efforts aimed at attaining PM10 and TSP standards; informal discussion of control strategies under development and most recently available data.	12/87	6/88					AQB
B. Continue Smoke Management Program.							AQB
C. Complete Kalispell source apportionment study.	9/87						AQB
D. Continue to participate in STAR acid deposition project.	As Required						AQB
E. Participate in development of Forest Service/BLM/North Dakota/Montana EIS addressing oil development in the Williston Basin.	As Needed						AQB, EPA
VIII. Training	As Available		.65	.20			AQB, EPA
A. Provide training to employees to effectively carry out air quality programs.							
1. Air Toxics #400, 401 or workshop.	1						
2. Hazardous Waste Incineration #502.	1						
3. Practices and Procedures in Asbestos Control.	1						
4. PM10 SIP development workshop.	1						
5. Aerometric Informational Retrieval System (AIRS) workshop.	1						
B. Other training will be provided as funds allow.							
TOTAL			18.1	4.0	320,657	537,000	
IX. Continue Indian assistance for collection of ambient data and control program development. State/EPA review monthly progress.	6	12	1.0	.3	0	55,000	AQB, EPA

Solid and Hazardous Waste Management

The disposal of solid waste has become a major, complex problem in Montana. Due to its nature, it also relates to air, water and land pollution. In the future, the solid waste problem will become more expensive and complicated.

Our society consumes enormous quantities of material and energy which, in turn, generates an exceedingly large volume of waste. Approximately 600,000 tons of municipal solid wastes are being generated every year in Montana. Given the well-established waste generation rates, by 1990 nearly 870,000 tons of waste will be generated per year. Presently, waste is being disposed of in more than 230 identified municipal disposal facilities and numerous undisclosed dump sites.

State records also indicate that approximately 10,000 tons of potentially hazardous wastes are generated each year in Montana. This volume of hazardous waste includes pesticides, heavy metals and other industrial chemical wastes. A large number of "empty" pesticide and other toxic chemical containers of all sizes are also discarded annually.

The state now possesses sufficient regulatory authority to control solid waste disposal. As required by the 1971 "Montana Solid Waste Management Act," the SHWB currently is licensing all solid waste management systems in the state. This licensing procedure assures that all such systems will provide a basic public service and not degrade the environment. To date, a total of 221 waste management systems have been licensed by the bureau.

Montana, through the SHWB, has received "final" authorization to manage a state hazardous waste management program. However, because of major changes in the RCRA, the SHWB will be initiating major program development activities to insure that the state program remains equivalent to its federal counterpart. The following number of businesses are presently regulated under the hazardous waste program:

Large Generators	60
Small Quantity Generators	56
Treatment, Storage and Disposal Facilities	10
Transporters	40

The U.S. Congress passed legislation to reduce the weight exemption limit for hazardous wastes from 1000 kilograms to 100 kilograms. Under the new regulations, the SHWB estimates that the number of regulated generators may increase ten-fold from the current status to approximately 900 to 1000 new generators. The SHWB currently is conducting a detailed statewide inventory to better determine the scope of the regulated community.

Other than the few generators with on-site treatment, storage and disposal facilities, hazardous waste generators in Montana are dependent on

out-of-state disposal facilities. Distances to out-of-state facilities are substantial for Montana operators, and this is viewed as burdensome, especially from the standpoint of transportation costs. Also, disposal fees charged by the out-of-state facilities routinely increase. These costs are especially taxing to small generators. It is also a possibility that these facilities may terminate their business, either permanently or for indefinite periods of time.

A fee system has been established to assist in the management of a state hazardous waste program. Under the system, hazardous waste generators and treatment, storage and disposal facilities are required to pay a fee to the state to help defray the costs of managing the state hazardous waste program.

During FY 1988 a priority will be the continued implementation and maintenance of a fully authorized state hazardous waste regulatory program. Such status will encompass complete state authority over hazardous waste generators, transporters and treatment, storage and disposal facilities. This authority will provide state primacy in permitting, monitoring and enforcement activities. The program will include continuing the notification procedures by regulated communities of hazardous waste activities.

The DHES will continue to provide an emergency response system, which includes a response plan and emergency response team. This team is comprised of state agencies representing a broad spectrum of disciplines. Such a structure assures that state government can provide technical advice and direct assistance to a variety of emergency situations.

As the state's hazardous waste program matures, measures will be taken to assure that an adequate work force is available. Efforts will be made, as needed, to supplement the current hazardous waste staff. In addition, the ongoing training of current staff will be maintained.

A concerted effort will be made to provide for public participation. Current state laws and regulations provide formal provisions for insuring public review and comment in the issuance of all permits. The level of public participation undertaken in other activities will depend on the degree of interest from affected or interested persons. Public participation will rely heavily on the mass media, direct mailings, public meetings and public hearings.

Under licensing procedures required by state law, the SHWB will continue to maintain an inspection program of all solid waste management facilities. The bureau will initiate enforcement action on facilities identified as open dumps, and for which no effort has been taken to close or upgrade the facilities.

The SHWB will continue to maintain a program to provide technical and consultant assistance to local governments for developing recycling and resource recovery activities. To the extent possible, the SHWB will continue to assist in the proper disposal of small quantity hazardous wastes.

Remedial investigations, feasibility studies, and remedial actions continue on most of the nine uncontrolled hazardous waste sites currently identified in the National Priority List (NPL). DHES has entered into four cooperative agreements with EPA which provide for substantive state involvement in this process. Currently, DHES has lead management responsibility for the original portion of the Silver Bow Creek site and the Milltown Reservoir sediments sites. Specific work efforts and commitments may be found in the Silver Bow Creek and Milltown Reservoir sediment cooperative agreements. DHES provides management assistance at the other NPL sites currently in the remedial investigation and feasibility study process. The specific sites and elements of work are defined in the Multisite Cooperative Agreement. Additionally, the DHES participates in the coordination of the Clark Fork River system sites and the development of a comprehensive data system, via the Clark Fork Cooperative Agreement. As funding becomes available to initiate the RI/FS process at Mouat, Idaho Pole, and Montana Pole, DHES will negotiate additional cooperative agreements or modifications to cooperative agreements to assume a lead or management assistance responsibility at these sites.

In addition to the participation at established NPL sites, the DHES has an important role in the identification and evaluation of sites for inclusion on the NPL. Under provisions of the Multisite Cooperative Agreement, the DHES conducts preliminary assessments (PA), and where necessary, site investigations (SIs) of potentially uncontrolled waste sites identified in EPA's Comprehensive Environmental Response Compensation and Liability Act (CERCLA) information system (CERCLIS). At present, Montana has 133 sites on CERCLIS. To date, 89 PAs and 29 SIs have been completed. In the course of conducting project activities, efforts will be made to identify uncontrolled hazardous waste sites not listed on CERCLIS.

The DHES is the designated agency for development and coordination of the underground storage tank program. In FY 1988 this program will involve informing tank owners of current and proposed new requirements, completing and upgrading the tank notification/inventory process and developing future program direction and implementation. The DHES will address leak response and cleanup efforts through the Water Quality Bureau. UST Trust authority and capability will be developed.

Contact Persons:

Solid and Hazardous Waste Bureau, DHES (444-2821)

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Roger Thorvilson, Hazardous Waste Section

EPA Montana Office (449-5414)

Eric Finke, Chief, Hazardous Wastes and Toxic Branch

ACTIVITY/OUTPUT	OUTPUT QUANTITY	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
HAZARDOUS WASTE										
I. Program Development/Management										
A. Develop legislation/regulations equivalent to EPA and update according to MOA. Clusters 2 & 3.	2					.30	.10			SHWB, EPA
1. Develop regulations			1		1					
2. Submit to EPA for review			1							
3. Promulgate rules			1							
4. Prepare authorization application			1							
5. Submit application to EPA				1						
B. Develop authority to include provisions of Hazardous and Solid Waste Act Amendments of 1984. Availability of information.	1					.20	.10			SHWB
1. HSWA statutory review and preparation of regulations.			1							
2. Submit to EPA for review			1							
3. Promulgate rules			1							
4. Prepare authorization application			1							
5. Submit application to EPA				1						
C. Develop regulatinns for hazardous waste transfer facilities (HB 729 and 789).	1	1				.07				SHWB
D. Update authorization MOA	1					.10	.05			SHWB, EPA
1. Permitting		1								
2. Enforcement		1								
E. Participate in codification of authorized program.	As required									EPA
1. Review State citations										
2. Submit copies of statutes and regulations										

ACTIVITY/OUTPUT	OUTPUT QUANTITY	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
F. Training										
1. Update training plan (as needed)	1		1			.30				SHWB
2. Implement staff training plan	Ongoing									SHWB
a. Permit Writing	1									
b. Personnel Protection	2									
c. Groundwater Monitoring	2									
d. Inspection Procedures	2									
e. Data Management	1									
* 3. Public education	Ongoing									SHWB, EPA
a. Small quantity										
b. HSWA										
c. Waste minimization, technical assistance										
d. Public information										
e. Assessment of private waste services to small quantity generators										
G. Prepare FY 89 SEA Workplan	1				1	.02	.05			SHWB, EPA
H. Attend semi-annual regional meetings	2	1			1					SHWB
1. Spring										
2. Fall										
I. Assist in conversion from HWDMS to RCRIS	1					.04				
1. QA State data										
2. Clean HWDMS data										
3. Participate in State/EPA RCRIS forum										SHWB, EPA
J. Transfer of EPA notification functions to the State	1	1				.02	.01			SHWB, EPA
K. Assess the need for a cooperative agreement for mine waste program and develop if needed.										SHWB, EPA
II. Implement State Hazardous Waste Program										
A. Compliance Inspections						2.20	.60			SHWB, EPA
1. TSD's										
a. Groundwater monitoring facilities										
(1) Compliance Eval. Inspec (CEI)	9	2	2	1	4					SHWB
(2) Comprehensive Groundwater Monitoring Eval. (CME 1/3) or Operation & Maintenance (O&M) In addition to CEI inspections.	3	1	1	1						SHWB
b. Non-groundwater monitoring facilities (50% year)	1		1							SHWB, EPA

* These activities were mandated by the 1987 Montana State Legislature.

ACTIVITY/OUTPUT	OUTPUT QUANTITY	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
c. Record Reviews										
(1) Closure/post closure	10	2	1	5	2					SHWB
(2) Financial	10	1	2	5	2					SHWB
2. Generators (>1000 kg)/Transporters	25	7	8	2	8					SHWB
3. Non-notifiers	20	6	4	3	7					SHWB
4. Follow-up	5	2	1		2					SHWB
5. Sampling (included in A.1-A.3 and A.7)	5	2		1	2					SHWB
6. Citizen complaints	As received									SHWB
7. SQG (<1000 kg)	30	10	5	5	10					SHWB
8. Federal Facilities (joint)	Included in A.1.b.									SHWB, EPA
9. State/Local (joint)	None anticipated									
B. Manifest Exception and Discrepancy Reports reviewed	As Required									
C. Receive and process HW annual reports	As Required									
D. Implement Facility Management Plans (see permitting and enforcement sections)										SHWB, EPA
1. Revise plans as necessary										
E. Permitting/Facility Management						3.60	1.25*			
1. Permit application submittals	5	3	2							SHWB, EPA
2. Operating Permits										SHWB, EPA
a. Review permit applications	5	1	4							MT/Denver
b. Prepare notice of deficiency	5		2	3						
c. Review notice of deficiency response	6	1		2	3					
d. Draft permits	4		1	1	2					
e. Public notice	2			1	1					
f. Issue final permits	2				2					
3. Solid waste management units										EPA, SHWB
a. Initial determinations										
b. RFA's (RCRA Facility Assessments)										
c. RFI's (RCRA Facility Investigations)										
4. Closure plan										SHWB, EPA
a. Closure plan submittals										
b. Public notices	1	1								
c. Approve modify	1		1							
d. Implement	2			1	1					

*Includes Denver Office resources for permit review/issuance.

ACTIVITY/OUTPUT	OUTPUT QUANTITY	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
5. Post Closure Permit										SHWB, EPA
a. Review permit applications	3	1	1		1					
b. Prepare notice of deficiency	3			3						
c. Review notice of deficiency response	3		1	2						
d. Draft permits	3			2	1					
e. Public notice	2				2					
f. Issue final permits	2				2					
6. Corrective Actions										
7. Exposure Assessments										
F. Enforcement (timely and appropriate response to all noncompliance found)	Refer to Section VIII of the attached Memorandum of Agreement									SHWB, EPA
1. Enforcement Agreement - Modify Section VIII of Memo of Agreement (MOA) to reflect EPA's current guidance on timely and appropriate enforcement	1	1				.02				SHWB, EPA
2. Significant non-compliers (SNCs) Treatment, Storage and Disposal Facilities (TSDFs)	See Enforcement Agreement					.20	.45			
a. Identify SNCs										EPA
b. Take appropriate enforcement action to bring into compliance										SHWB, EPA
3. Other enforcement						1.60	.15			SHWB, EPA
a. Warning letters	Report on Compliance Monitoring and Enforcement Log (CMEL) and summarize at mid-year and year end See Enforcement Agreement for Items a. through h.									
b. Notices of violation										
c. Compliance orders										
d. Administrative orders										
e. Civil actions										
f. Criminal actions										
g. Referrals to Attorney General										
h. Referrals to EPA										
G. EPA Oversight							See previous activities EPA			
1. Inspections										
2. Enforcement actions										
3. Permit reviews										
4. Closure/post closure										
5. State program audits										
6. 3008(h) corrective action orders										

ACTIVITY/OUTPUT	OUTPUT QUANTITY	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
H. State Reporting						.16	.05			SHWB, EPA
1. Compliance Monitoring and Enforcement Logs (CMEL)	Monthly	3	3	3	3					
2. Status of Permit Application Report	Monthly	3	3	3	3					
3. Facility Status Sheet	Monthly	3	3	3	3					
4. New Facility Info, Insp. Report, Public Notices	Ongoing									
I. Other	As required									
1. Equipment										
2. Contracts										
III. Maintain Solid Waste Management Program										
A. Inspection and enforcement										
1. Continued maintenance of a waste management inspection program.										
2. Prepare and initiate enforcement actions where violations of license conditions have occurred.										
3. Follow-up inspections where enforcement action has taken place.										
See Quality Assurance Workplan for hazardous waste program commitments.										
TOTAL						8.83	2.86	127,646	382,939	

ACTIVITY/OUTPUT	OUTPUT QUANTITY	QUARTERLY MILESTONES 1 2 3 4	RESOURCES WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	RESPONSIBLE AGENCY
UNDERGROUND STORAGE TANKS							
I. Program Development	Completed 1985	(Dates dependent on EPA rules promugation and guidance.)	1.70				SHWB
A. Legislation							
B. Regulations-Federal review & State development	1988						
C. Authorization application development							
D. Continue initiatives for self-funding and local cooperation							
E. Certification of tank installers							
II. UST Notification			.30				SHWB
A. Data system completion		1					
B. Enter forms for late notifiers and new tanks	Ongoing						
C. Disseminate forms and locate non-notifiers	As needed						
III. Technical Assistance	Ongoing		.80	.10			SHWB, EPA
A. Regulations (notification/interim prohibition)							
B. Industry and public information							
C. Training-State and local							
IV. Compliance Monitoring and Enforcement	As Required	1.40	.10			SHWB, WQB	EPA
A. Interim prohibition/Cooperative Agreement							
B. Inspections per Cooperative Agreement							
C. Notification provisions	As appropriate						
V. Underground Storage Tank Trust Fund			.20	.80			SHWB, WQB EPA
A. Negotiate Cooperative Agreement			NOTE: Final Agreement will contain activities and resources.				
B. Implement program							
VI. Training							SHWB, WQB
A. Enforcement	As appropriate		.10				
1. Interim prohibition standards							
2. Report requirements							
B. Field							
1. Groundwater monitoring							
2. Remedial measures							
3. Installation procedures							
4. Data management							

SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	OUTPUT QUANTITY	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
VII. Equipment			As needed							
A. Must be tied directly into enforcement of interim prohibition or notification.										
B. Leak detection & corrective action will be part of FY 88 program.										
See Quality Assurance Workplan for UST program commitments.										
	TOTAL					4.50	1.00	44,005	132,015	

ACTIVITY/OUTPUT	OUTPUT QUANTITY	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (CERCLA)										
I. Investigate sources of release and threats of possible release of hazardous substances.										SHWB, EPA
A. Quarterly reports	4	10/30	1/30	4/30	7/30					
B. Preliminary Assessments										
C. Site Investigations										
D. Direct other FIT activities	As Needed									EPA
E. Develop submission for National Priorities List (NPL)										
(See Cooperative Agreement for details.)										
II. Review and make funding determinations for CERCLA actions to control releases when responsible party fails to provide proper response.	1									EPA, SHWB
III. Implement Cooperative Agreements and SCAP/ Site Management Plan commitments for remedial investigations/feasibility studies, remedial measures at specific sites, and intersite coordination. Submit quarterly reports.	4	10/30	1/30	4/30	7/30					SHWB, EPA
A. Milltown										
B. Silver Bow Creek										
C. Clark Fork Superfund Sites										
D. New sites (as identified)										
(See Cooperative Agreements for details or activities governed by separate Cooperative Agreement.)										
IV. Provide management assistance to Federal-lead CERCLA activities.										
A. Number of sites dependent on FY 88 SCAP allocations										
B. Quarterly reports	4	10/30	1/30	4/30	7/30					SHWB

SOLID AND HAZARDOUS WASTE MEDIA WORK PLAN

ACTIVITY/OUTPUT	OUTPUT QUANTITY	QUARTERLY MILESTONES 1	2	3	4	RESOURCES WORKYEARS STATE	LOCAL	EPA	DOLLARS STATE	EPA	RESPONSIBLE AGENCY
V. Monitor enforcement/remedial activities as specified in SCAP commitments and Site Management Plans at sites where responsible parties undertake clean-up activities.											EPA, SHWB
A. East Helena											
B. Anaconda Smelter, Anaconda											
C. Libby											
D. BN Somers											
E. Butte portion of Silver Bow Creek											
F. Montana Pole											
G. Idaho Pole											
H. New sites (as identified)*											
VI. Coordinate CERCLA activities with other statutes (e.g., RCRA/CWA, etc.)											EPA, SHWB

*Actual number of CERCLA actions initiated will be dependent on FY 88 resource allocations.

CATEGORICAL
Toxics

Asbestos Hazard Emergency Response Act (AHERA)

The Asbestos Hazard Emergency Response Act (AHERA) of 1986 (PL99-519). Under AHERA, the EPAI was signed into law and was directed to promulgate regulations which provide a framework for addressing asbestos problems in public and private schools. The proposed rule was signed on April 20, 1987, and the final rule will be published in October 17, 1987. The rules cover all public and private non-profit elementary and secondary schools.

The rules require local education agencies (LEA) (individual schools or school districts) to develop and submit asbestos management plans to the Governor for his review by October 12, 1988. The Governor has 90 days to complete his review. Those plans are to be implemented by July 1989.

The rules also require the state, at its next legislative session, to adopt and implement an accreditation program for persons conducting asbestos inspections, developing management plans or designing or conducting response actions.

There are 544 active public school districts in the State of Montana, plus an additional two dozen or more private schools. The task of reviewing and processing that many asbestos plans will be a substantial undertaking.

Prior to the receipt and review of the plans, a considerable amount of planning and preparatory work will be required, including the following:

- o Development of guidance for the preparation of management plans;
- o Discussions and meetings with school administrators to review the requirements of the new rule;
- o Efforts to encourage a significant portion of the LEA to submit their plans well in advance of the October 12, 1988 deadline, to allow for a more complete and orderly review of the plans;
- o Respond to inquiries from school administrators, parents, consultants, asbestos abatement firms concerning AHERA and the AHERA regulations, and
- o Plan and prepare accreditation program for introduction in the 1989 legislative session. Alternately, recommend to the legislature that it adopt the model accreditation program developed by EPA.

The state is fully aware of both the desirability and the need to move forward with an effective asbestos program.

However, economic conditions in the state are such that neither money nor staff are currently available for this program. Since the Montana legislature does not convene again until 1989, there is little chance that

additional funds will become available to implement this program until then.

Polychlorinated Biphenyl (PCB)

In a regulation effective August 15, 1985, EPA required that all PCB transformers be registered with local fire departments by December 1, 1985. As a result, inspection of PCB transformers in commercial buildings must now be undertaken. Five or more such inspections will be conducted in FY 1987, in connection with the usual inspections of industrial and other users of PCBs.

During FY 1986 more than 25 inspections of facilities using PCB's were performed.

On April 2, 1987, EPA published a final rule governing PCB spill cleanup policy. It establishes a range of decontamination standards depending upon the location and concentration of the spill.

ACTIVITY/OUTPUT	MILESTONE		RESOURCES				RESPONSIBLE AGENCY
			WORKYEARS		DOLLARS		
	THROUGH MIDYEAR	THROUGH END OF YEAR	STATE	EPA	STATE	EPA	
TOXIC SUBSTANCES*							
I. Protect health and well being of school children attending schools that contain friable asbestos-containing materials.				.25		15,000	
A. Provide assistance and technical advice to school district administrators in complying with the asbestos rule.							EPA
B. Inspect school districts for compliance with asbestos program requirements. Carry out necessary follow-up action.	05	10					EPA
II. Ensure mutual information exchange regarding significant toxics activities.				.05		3,000	EPA
A. Provide quarterly list of inspections performed.	2	4					EPA
B. Notify State of cases filed by EPA within 4 days of the action.							EPA
C. Consult with State on methods of dealing with PCB users both from a consulting and an enforcement viewpoint.							EPA
III. Report within thirty (30) days incidents involving chemical contamination.							DHES, OOA EPA
IV. Implement PCB work plan.				.30		18,000	EPA
A. Inspect facilities which store or use PCB-containing materials.	4	8					
B. Prepare any technical documentation in support of enforcement actions for violations found during inspections within forty-five (45) days.							EPA
V. Implement Section 13 Imports Compliance Inspection program.	To Be Further Defined by Region			.10		6,000	EPA
See Quality Assurance Workplan for toxics program.							
TOTAL				.70		42,000	

*Final commitments will be adjusted upward or downward from those indicated above depending on the actual level of resources allocated to the Montana Office in FY 88.

Pesticides

Montana is primarily an agricultural state, and as such, requires the use of pesticides to help manage a multitude of pest problems. Based on data collected from commercial applicators, it is estimated that from 2.8-3 million acres are treated commercially each year. There are no accurate statistics available for farm (private) applicators, but generally the farm applicators treat smaller acreages, do spot treating and field margin treating. In most years, farm applicators would probably apply pesticides to 1.5-2 million acres.

The Environmental Management Division (EMD), of the Montana Department of Agriculture (DOA), has a responsibility to not only serve Montana agriculture, but is also mandated to protect the environment and the health of the state's citizens. Toward this end, the Environmental Management Division administers a pesticide applicator licensing, permitting and certification program and an enforcement program.

Recertification of commercial applicators and dealers has been implemented. Farm applicators certified to use restricted use pesticides are on a five year requalification cycle, with applicators in one of the five agricultural districts being recertified each year. Commercial applicators and dealers are on a four year recertification schedule. The applicator categories have been divided among the four year period, so that not all categories are due for recertification or relicensing the same year.

EMD provides pest management services to producers, industry, government agencies and the general public. These services include providing information on integrated pest management procedures for specific cropping systems, recommendations on use of pesticides, identification and surveillance of pests and the evaluation and resolution of the effects of pesticides on agriculture and the environment. The division also registers pesticide products (4,421) prior to their use in the state; licenses pesticide dealers (605), commercial and government applicators (1,149) and their licensed operators (745); licenses private applicators (7,821), and regulates the use and sale of pesticides. The department's laboratory provides analytical regulatory and service analysis to other departmental programs and to the general public.

Pesticide specialists conduct dealer, applicator and marketplace inspections following the field quality assurance manual and program. Compliance with record keeping requirements and other provisions of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Montana Pesticide Act (MPA) is monitored and documented.

The DOA is now utilizing an enforcement response policy related to pesticide complaints and investigations as required by EPA.

The laboratory follows the EPA approved quality assurance program for all enforcement samples. Non-regulatory environmental samples follow quality assurance procedures if requested by the submitter. The laboratory participates in the EPA check sample and sample check analysis procedure programs.

A pesticide groundwater sampling program was started in FY 1984. Since then, new sample sites have been added each year as well as re-sampling some positive wells to determine what was happening to the residue levels. As groundwater monitoring strategies have become available from other states, as well as on the federal level, the DOA has modified its monitoring scheme somewhat, so that results obtained here can be compared with results obtained elsewhere. As health guidance information becomes available on other pesticides, monitoring may have to be increased or decreased depending upon the quantity and degree of use in the state of any particular pesticide.

Monitoring for residues and potential environmental contamination resulting from the use of Specific Exemption (Section 18, FIFRA), Special Local Need (Section; 24(c), FIFRA) and experimental use pesticides will continue in FY 1988.

The DOA's authority for registering pesticides, licensing and certifying applicators, licensing dealers and operators and for conducting inspections and carrying out enforcement actions is provided for in the Montana Pesticides Act, Section 80-8-101 through 306 MCA.

The DOA proposes to continue the comprehensive cooperative enforcement program and agreement with EPA through inspections (including use/misuse, restricted and general use products, records and proper licensing), investigations, pesticide sampling, laboratory pesticide analysis, efficacy studies and enforcement actions. These activities would be continued under the quality assurance agreements made with EPA under previous grants. The DOA's pesticide specialists hold credentials and have the authority to carry out the mandates of the FIFRA as well as the Montana Pesticides Act.

The DOA has been granted "primacy" under Section 26 of FIFRA, as amended. It is the intent of the department to serve as the primary agency in conducting inspections, investigations and sample collection and analysis in accordance with EPA approved procedures and to take effective action against violators. The outputs listed in the media work plan reflect those that are funded by the EPA grant. The DOA will continue to issue and monitor Section 24(c)'s, Section 18's and experimental use permits.

The DOA's Field Services Bureau and Pesticide Analytical Laboratory will continue to maintain the quality assurance program for sample handling and analysis. The laboratory will continue to provide pesticide analytical services to EPA and other states on a fee basis which will cover the cost of supplies, materials and communications.

Accomplishments in FY 1987

Enforcement

The DOA's Field Services Bureau met and exceeded outpost as agreed to in the 1987 Media Work Plan. The number of enforcement incidents were lower in FY 87 compared to the average number in past years. This is interesting in view of the fact that high grasshopper populations resulted in significant amounts of insecticides being applied statewide. This reduction is due, we believe, to an improved and more visible enforcement

program, an improved certification program that trains licensed individuals to be better applicators and continued drought conditions which reduced the volume of herbicides applied and the areas treated.

The laboratory met all of its projected outputs for FY 1987. It also just completed $100,000 worth of facility remodeling. This will make the laboratory more efficient in its operations.

Certification

The DOA's Technical Services Bureau met or exceeded all of the outputs listed under the FY 1987 certification program. Certification credentials were issued to nearly 5000 individuals and information on regulatory and certification requirements was provided to industry and the general public on a daily basis.

Objectives-Enforcement FY 1988

* The DOA will implement, on a case-by-case basis, an inspection/-investigation program to insure that cancelled or suspended pesticides and restricted use pesticides are not being sold illegally or misused. Enforcement actions will be initiated against those individuals not in compliance with the state and EPA standards.

* The DOA will continue to investigate pesticide drift problems. With new products being developed such as biotechnical materials, new investigative procedures may need to be developed to respond to the changes in application techniques, application rates, active ingredients, etc.

* The exposure of Montana farm workers and applicators' employees to pesticides being sued, i.e., handling, mixing, loading, applying, storing, disposing, etc. remains a concern for Montana. Use inspections of pesticide mixing, loading, application sites and treated fields in which workers may be exposed will be increased to determine if label safety requirements are being met.

* The DOA will intensify their efforts in investigating misuse of pesticides labeled for home, lawn, yard and garden use. In recent years, there has been a noticeable increase in such incidents requiring more attention from the department field staff.

* The DOA will continue to identify possible groundwater contamination through pesticide monitoring and misuse investigations through sampling associated with existing and new sites.

* The DOA will continue, in cooperation with the DHES, an educational compliance and enforcement program on disposal of pesticides and pesticide containers in accordance with FIFRA, the Montana Pesticides Act, the Resource Conservation and Recovery Act and rules adopted thereunder. Most efforts will likely be directed at the small quantity generators.

* The DOA will continue to identify illegal sales of restricted use pesticides to uncertified applicators through its established inspectional program and pursue appropriate enforcement actions.

* The DOA may become involved with major spray programs within FY 88. If this is required, the department will inspect the operations associated with such a project and implement any enforcement activity required.

The evaluation and establishment of priorities of the enforcement program will be conducted through a computer tracking system that was developed and implemented in FY 1987. This system contains information on all enforcement cases, and shows trends within on year or over several years. It will also be used for the reporting of inspections and samples to EPA on a quarterly and yearly basis.

Objectives-Certification

* The certification program is a federally mandated program which requires pesticide applicators using restricted-use pesticides to comply with state and federal certification standards. The Montana Certification Plan was approved by EPA and has been in effect since 1976. The state plan was amended to include some recent legislative changes as well as to add two new applicator categories. The amended plan was approved by EPA during FY 1987.

  Commercial and governmental applicators requesting certification have been certified, and the strategy will be to conduct at least one general certification course (20 hours) for new applicators who wish to be certified. Most of the farm (private) applicators who have requested certification have been certified. The strategy for the Cooperative Extension Service will be to conduct certification training for farmers in those counties where the need for certification is expressed.

  The DOA will maintain the data processing system for the storage of qualification data for dealers and applicators and for the issuance of certification credentials to qualified applicators as well as to newly certified individuals entering the system.

* The DOA will cooperate with the EPA's Regional review of pesticide applicator training programs, training materials and examinations. Implementation of any recommendations by the EPA to the DOA will be subject to existing program requirements, manpower and monetary resources.

* The DOA will cooperate with the EPA's Regional review of the state's approved state plan as it relates to the current state program. If there are any suggested changes requiring legislative action, these changes cannot be implemented until 1989.

* Estimations for certification and training for FY 1988.

	Private	Commercial
Approved Training Sessions to be Conducted	45	20
Training Sessions to be Participated in or monitored	20	15
Applicators to be Certified	700	400
Applicators to be Recertified	1700	300

The certification and training sessions will continue to be evaluated via the evaluation forms completed by the participants at each session. Recommendations and suggestions are tabulated and recorded to make improvements in future sessions.

The agreement between DOA and EPA has many benefits. The primary benefit is that this agreement reduces the total operations and capital expenditures are not duplicated. DOA's pesticide specialists are certified as both state and EPA inspectors. This arrangement establishes a consistency in approach and objectives for the public. Because of this consistency, applicators and dealers are more cooperative and give better compliance. By having this agreement with EPA, communication is established between the states and EPA and it provides a better definition of national and state pesticide issues and problems.

The specific activities and accomplishment commitments can be found in the Pesticides Media Work Plan.

Contact Persons:

Environmental Management Division, DOA (44-2944)

Gary Gingery - Administrator
Laszlo Torma - Laboratory Bureau Chief
Dick Blodnick - Field Services Bureau Chief
George Algard - Technical Services Bureau Chief

EPA Montana Office (449-5414)

Dean Chaussee - Pesticides Manager
Dick Montgomery - Pesticides Branch Chief

PESTICIDE MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE		RESOURCES				RESPONSIBLE AGENCY
	THROUGH MIDYEAR	THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	DOLLARS STATE	DOLLARS EPA	
I. ENFORCEMENT PROGRAM							
A. Agricultural Use Inspections	15	30	.38		5,033	4,109	DOA
B. Agricultural Follow-up Inspections	20	35	.44		5,825	4,848	DOA
C. Non-agricultural Use Inspections	5	10	.13		1,712	1,426	DOA
D. Non-agricultural Follow-up Inspections	10	15	.22		2,913	2,424	DOA
E. Experimental Use Inspections	4	5	.04		537	447	DOA
F. Producer Establishment Inspections		10	.08		1,048	872	DOA
G. Marketplace Inspections	20	40	.11		1,456	1,212	DOA
H. Certified Applicator Records Inspections	30	60	.17		2,248	1,871	DOA
I. Restricted Use Sales--Pesticide Dealers Inspections	20	40	.11		1,456	1,212	DOA
J. Samples taken in the field	80	160	.25		3,321	2,764	DOA
K. Formulation Samples *	5	45	.27		1,538	30,888	DOA
L. Residue Samples *	75	115	.70		3,995	80,220	DOA
M. EPA Pesticide Samples *	45	120	.87			43,761	DOA
*Includes Quality Control Analysis			3.87		31,082	176,134	
II. CERTIFICATION PROGRAM							
A. Issue Certification Credentials		4,100					DOA
B. Monitor Certification Program		Semi-Annual					DOA
TOTAL							
III. REPORTS							
A. Submit Summaries of Enforcement and Certification Data	Quarterly	Quarterly					DOA
IV. EPA OVERSIGHT (Includes technical assistance, mid-year and annual evaluation, grant support, Section 18 and 24(c) support, etc.)				0.5			EPA

Public Participation

The comments of interested persons, lawmakers, state, federal and local health and/or environmentally-related agencies and appropriate citizen advisory groups were sought through the drafting and distribution of this agreement.

New phases of programs and developments were presented to interested persons and agencies via news media releases, newsletter articles, TV and radio media.

Emergency Response and Title III

Montana will continue to respond to accidental releases of hazardous substances in emergency situations. In addition to efforts by state and local agencies, the federal government, principally under the auspices of EPA and the Regional Response Team, will assist the Montana agencies upon request.

Since its passage in October 1986, the Emergency Planning and Community Right-To-Know Act (more commonly referred to as "Title III") has become a point of interest to local, state and federal agencies. The Act establishes major authorities relating to: 1) emergency planning, 2) emergency notification, 3) community right-to-know for reporting chemical substances and 4) emissions inventory.

Montana has created a state commission to direct the implementation of Title III. During FY 1988, the commission will establish districts within the state and create local planning commissions, where appropriate. EPA will assist state and local commissions by providing educational material and help with training upon request, and within the limits of its resources.

CATEGORICAL MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	RESPONSIBLE AGENCY
I. Emergency Response					
A. Immediate removal action in response to releases or substantial threats of releases of hazardous substances.	Quarterly Review	Quarterly Review	.10	.20	
1. Upon request by the State provide Federal on-scene coordinator (OSC) to monitor responsible party action for all severe releases requiring immediate removal.					EPA
2. Upon request by the State provide funding (if available) and OSC for immediate removal of releases when responsible party fails to provide proper response.					EPA
3. Carry out all State responsibilities under the State Environmental Emergency Response Plan and provide State OSC to monitor responsibile party action for releases where Federal OSC not required.					State
B. Response to oil spills entering or threatening surface waters.	Quarterly	Quarterly	.20 Review	.20 Review	
1. Provide funding (if available) and direct cleanup of all spills when responsible party fails to properly respond.					EPA, State
2. Provide OSC for all major and selected medium spills to monitor response by responsible party.					EPA, State
3. Provide OSC for selected medium and all minor (when necessary) spills and carry out responsibilities under State Contingency Plans.					State
C. Contingency Planning.			.10	.10	
1. Update Region VIII Oil and Hazardous Substances Pollution Contingency Plan.		6/88			EPA
2. Update State Environmental Emergency Response Plan.	Semi-Annual Review	EOY Review			State
D. Training of State and Local Emergency Response Personnel.			.03		
1. Ensure adequate safety training provided to State personnel responding to hazardous material emergencies.	Within 90 days of hire, refresher training annually				WQB
E. Support State Preparedness Planning.					
1. Preparedness training	1 9/30/87			.10	EPA
2. Provide technical preparedness support	Ongoing			.10	EPA
TOTAL			.43	.70	

CATEGORICAL MEDIA WORK PLAN

ACTIVITY/OUTPUT	MILESTONE THROUGH MIDYEAR	MILESTONE THROUGH END OF YEAR	WORKYEARS STATE	WORKYEARS EPA	RESPONSIBLE AGENCY
II. Flathead Basin Commission					
A. Serve as EPA representative on Flathead Basin Committee.	4 meetings			.05	EPA
III. Public Participation			1.20	.96	
A. Maintain mailing list of persons and organizations who have expressed an interest in or may be affected by any environmental issue or program.	Review Semi-Review	Review EOY			DHES, DOA EPA
B. Provide draft and final Agreement to interested public.	5/87 7/87				EPA
C. Provide final SEA to State's major public libraries.	7/87				EPA
D. Collect news articles about pertinent programs to determine public opinion.	Ongoing				DHES, DOA EPA
E. Prepare news releases on important and new developments in environmental programs.					EPA
F. Informal and impromptu personal communications with individuals and groups.	Ongoing				DHES, DOA EPA
G. Provide speakers for interested groups.					DHES, DOA EPA

QUALITY ASSURANCE WORKPLAN

ACTIVITY/OUTPUT	MILESTONE	RESPONSIBLE AGENCY
ALL MEDIA		
Quality Assurance is a requirement of all programs. The following is a description of planned commitments.		
A. Support State's Quality Assurance (QA) activities and provide assistance.	Ongoing	EPA
B. Submit QA plans and documentation during application process.		MDA, DHES
C. Update or modify QA plans.	As necessary	MDA, DHES
D. Review submitted QA plans and provide comments.		EPA, QAO
E. Evaluate and certify State Principal Laboratory(s).	As scheduled	EPA, QAO
F. Evaluate and certify local laboratories (SDW program only).	Ongoing	DHES
G. Provide reference and audit samples.	As requested	EPA, CI
H. Analyze performance evaluation samples and report results.	Ongoing	MDA, DHES
I. Participate in systems audits.	As requested	MDA, DHES

Program	Last Quarter Federal FY 87 Funds	Oct-June Federal FY 88 Funds	Total SFY 88 Federal Funding
Air Pollution Control (Section 105)	134,250	402,750	537,000
Air Indian Technical Assistance	13,750	41,250	55,000
Water Pollution Control (Section 106)	97,160	289,856	387,016
Groundwater	89,831	71,775	161,606
205(g) NonCMAG			
Water Quality Management (Section 205(j)(1))	108,264		
Water Quality Management (Section 205(j)(5))		75,000	75,000
Construction Grants (Section 205(g))	357,222		357,222
Drinking Water			
Public Water System Supervision (Section 1443(a))	165,860	280,500	446,360
Underground Injection Control (Section 1443(b))	-0-		
Wellhead Program		75,000	75,000
RCRA (Section 3011)			
Hazardous Waste Management	104,689	278,250	382,939
RCRA (Section 2007(f) (2))			
Underground Storage Tank	38,265	93,750	132,015
FIFRA			
Pesticide Enforcement (Sec. 23(a)(1))	31,670	88,050	119,720
EPA Laboratory Support	10,000	30,000	40,000
Pesticide Applicator Certification and Training (Section 23(a)(2))			

CERCLA - Superfund **	Federal Funding To Date	State Funding To Date	Total Funding
Milltown (7/83 to 9/87)	1,176,216	35,131	1,141,085
Multi-Site (4/85 to 9/87)	756,897		756,897
Silver Bow (10/83 to 9/89)	3,994,996	526	3,995,522
Clark Fork River (3/87 to 9/89)	350,000		350,000

*Based on President's Budget submission.

**Total program funding to date. 100% Federal unless privately-owned site then 10% State match required for remedia implementation costs.

COOPERATIVE ENFORCEMENT AGREEMENTS

Achieving and maintaining a high level of compliance with environmental laws and regulations is one of the most important goals of Federal and State environmental agencies, and is an essential prerequisite to realizing the benefits of our regulatory programs. While State and local governments have primary responsibility for compliance and enforcement actions within the State, EPA retains responsibility for ensuring fair and effective enforcement of Federal requirements, and credible national deterrence to non-compliance. An effective State/Federal partnership is critical to accomplishing these goals, particularly given limited State and Federal resources.

The inclusion of the enforcement agreements as appendages cover all aspects of the State's and EPA's compliance and enforcement programs including those activities involving Federal facilities within Montana. These agreements do not duplicate national program guidance. National policy will apply where not clearly specified elsewhere.

The Governor's Office has designated Mr. Brace Hayden as the focal point for Federal facilities compliance and enforcement strategies. All information relative to Federal facilities will be coordinated through him.

Appendix A

COOPERATIVE ENFORCEMENT AGREEMENT

Between

U. S. ENVIRONMENTAL PROTECTION AGENCY

and

STATE OF MONTANA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

National Pollutant Discharge Elimination System

PURPOSE:

The purpose of this Agreement is to provide for routine coordination and consultation on State and EPA enforcement activities. This Agreement serves to clearly define the State/Federal partnership in enforcement as described in the following documents:

1. Guidance for the FY 1988 State/EPA Enforcement Agreements Process.

2. Policy Framework on State/EPA Enforcement Agreements: Draft Addendum on Oversight of State Civil Penalties dated April 18, 1986.

3. The FY 1987 National Guidance for Oversight of NPDES Programs dated April 18, 1986.

SCOPE:

This Agreement establishes the routine consultation and coordination of State/EPA enforcement activities and defines the basic oversight criteria for timely and appropriate enforcement actions.

BACKGROUND:

In accordance with the Federal NPDES regulations, the State reviews all appropriate compliance information for all permittees and prepares and submits to EPA the Quarterly Noncompliance Report (QNCR). This document serves as one of the basic mechanisms for coordinating and overseeing activities involving major permittees. As an additional oversight procedure, EPA Region VIII reviews selected compliance information (primarily inspection reports and selected DMR's for major facilities) and where appropriate, may issue an NOV to the State where significant noncompliance (SNC) is found. State response to EPA issued NOV's is to be reported to EPA in writing within 30 days.

NONCOMPLIANCE CONSULTATION AND COORDINATION:

EPA and State compliance staff consult and coordinate related enforcement activities on a day-to-day basis in a coooerative and professional manner to ensure the most efficient and effective State and Federal compliance actions.

Specifically, at a minimum, EPA and the State will review each month the status of permittees on the Quarterly Noncompliance Report (QNCR), any outstanding Notices of Violation (NOV), and all violations by all permittees. Participants are the State permits and compliance staff, as appropriate, and the Montana EPA office permits and compliance engineer.

Prior to the meeting, the State develops a summary of all violations and any supplementary information. During the meeting, the most recent QNCR is reviewed to determine if any permittee on the QNCR has continuing violations. A written record is maintained to document all State and/or EPA actions taken with regard to all violations, significant or not. A full range of enforcement actions may be taken, including joint issuances of Notices of Violations (NOVs).

At the first monthly meeting following submittal of QNCR, the State and EPA discuss any EPA comments on the State's preceding QNCR. EPA's comments may include: the permittee in question, the State action in question, the recommended action to be taken by the State and/or EPA, and the State's average response time and average compliance rate.

The common goal of the State and EPA is to cause permittees to achieve prompt and sustained compliance. If full agreement on appropriate State and/or EPA actions cannot be reached, the discussion will be escalated to the next administrative level by both parties.

REPORTING:

The State submits QNCR's to EPA by August 31, November 30, February 28, and May 31 of each year in accordance with 40 CFR 123.45. Also the State submits a listing of all formal enforcement actions taken during the quarter within one week after the end of the quarter. These reports cover the July-September, October-December, January-March and April-June quarters, respectively. State formal enforcement actions are defined as: administrative orders issued; civil referrals to the State Attorney General (submittal of Violation Report Forms (VRF's) to Legal); civil complaint filings in State court; consent agreements filed in State court (Consent Decree, Judgment and Order settlement); and criminal referrals to the State Attorney General. The State maintains a log of all penalties assessed, suspended and collected.

CIVIL PENALTIES:

The State has developed a draft written civil penalty policy. EPA review comments will be considered as the policy is finalized during FY 88. The policy states under what circumstances the State will seek civil penalties. The State's policy considers at minimum the economic benefit of noncompliance, the seriousness of the violations, the number of violations, the environmental harm done, and the recalcitrance of the violator. The policy includes a worksheet on which the penalty may be calculated.

STATE CONSENT AGREEMENTS AND JUDICIAL REFERRALS:

The State will continue to consult and coordinate closely with EPA on all consent agreement negotiations and judicial referral preparations. Specifically, the State and EPA will consult regarding the contents and terms of consent agreements before signing and judicial referrals before filing. Included in the discussions will be a summary of the violations and the penalty calculations used to determine the proposed penalty.

EPA ENFORCEMENT ACTIONS:

EPA will consult and coordinate closely with the State on all direct enforcement actions, including imposition of administrative penalties, it considers in the State. EPA will consider Federal enforcement action when any of the following situations exist: the State requests EPA direct enforcement; a violation of an EPA administrative order or consent decree occurs; a legal precedent under national environmental laws is present; when necessary to ensure the viability of a national initiative (example: NMP); unresolved interstate issues are present; the State is not operating a portion of the NPDES permit program in lieu of EPA (example: pretreatment, Federal facilities); in the judgment of EPA the State has not addressed all appropriate violations, or has not initiated a timely and appropriate enforcement action, or has obtained a penalty or sanction which does not meet EPA's standards under the circumstances of the violations. All enforcement requirements upon the State as a consequence of this Agreement shall be upon EPA when EPA seeks to take enforcement actions in Montana.

ATTORNEY GENERAL INVOLVEMENT:

It will be the responsibility of the State Environmental Agency to keep the State Attorney General informed of planned EPA direct enforcement actions.

FEDERAL FACILITIES:

Federal facilities will be treated under this agreement in the same manner as non-federal permittees. EPA will be notified of State enforcement actions on Federal facilities. In the spring of each year the Federal Facilities Coordinator will send to the State the A-106 listing of Federal facility pollution control projects for review and comment. The State will be asked to identify missing necessary water pollution control projects.

PRETREATMENT:

Until the delegation of the pretreatment program authority to the State occurs, EPA will remain primarily responsible for enforcement activities regarding pretreatment. The State is encouraged to conduct pretreatment inspections and to provide EPA any information it finds regarding pretreatment violations. Once delegation is granted the State shall be responsible for pretreatment actions to the same degree and extent as any other NPDES violation.

OVERSIGHT CRITERIA:

To implement the above-cited EPA policy and guidance, the following enforcment response guidelines will be followed:

A. Timeliness

1. The State will evaluate instances of noncompliance by major permittees and P.L. 92-500 minor permittees within 30 days from the identification of a violation; determine the appropriate response, and document any action taken/not taken (including the technical reason).

2. In the case of major permittees, the State is expected to have already initiated an enforcement action to achieve compliance by the time the permittee appears on the QNCR.

3. Prior to a permittee appearing on the subsequent QNCR for the same violation, the permittee should either be in compliance or the State should have taken formal enforcement action to achieve final compliance.

B. Appropriateness

1. Formal enforcement action should be the response to significant noncompliance listed on a QNCR. Formal enforcement actions are defined as those which (a) clearly define the violation(s) identified, (b) require corrective actions by a specified date, (c) describe enforcement consequences should the violations not be corrected as required, and (d) can be independently enforced without proving the original violation.

2. A judicial referral should be utilized where:

   a. An administrative order has been violated.
   b. The violation must be stopped immediately.
   c. Long-term compliance must be compelled.
   d. A substantial economic benefit has been obtained from acts of noncompliance.
   e. A deterrent is needed to prevent others from similarly violating the law.

3. A monetary penalty should be sought in each judicial referral or consent agreement (regardless of the facts).

4. The size of the penalty to be obtained shall be reviewed in light of and commensurate with one calculated using EPA's Clean Water Act Civil Penalty Policy.

Appendix B

COOPERATIVE ENFORCEMENT AGREEMENT

Between

U.S. ENVIRONMENTAL PROTECTION AGENCY

and

STATE OF MONTANA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Public Water System Supervision Program

This Enforcement Agreement was not completed in time for this draft.

Appendix C

COOPERATIVE ENFORCEMENT AGREEMENT

Between

U. S. ENVIRONMENTAL PROTECTION AGENCY

and

STATE OF MONTANA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Air Program

I. SCOPE

A. The purpose of this agreement is to delineate and clarify the responsibilities of the EPA and the Montana Department of Health and Environmental Sciences (MDHES) in the implementation of all federally enforceable air pollution control requirements for stationary sources within Montana. It is expected that a Federal-State partnership will result which will effectively carry out the intent of the Clean Air Act. It is anticipated the protocol will be modified and expanded in future years to reflect changes in state and national policies.

It is assumed the MDHES will address violations of air pollution regulations within its jurisdiction. It is not intended that focusing on a limited group of violators for purposes of this protocol will detract from the importance of addressing other violators and the rights and responsibilities of the MDHES or EPA to do so.

B. This protocol applies to the following types of violations:

1. Class A SIP sources which are in or adjacent to a nonattainment area and which violate a standard limiting emissions of a pollutant for which the area is nonattainment;

2. Class A sources in violation of an NSPS, PSD, nonattainment, or permit requirement;

3. Class A sources that are repeat violators;

4. Class A sources violating an MDHES or EPA Consent Order;

5. Class A sources in violation of an MDHES or EPA enforcement order; and

6. NESHAPS violations; the timelines provided in Section II and III do not apply since the seriousness of the violation normally would require expedited action.

C. This protocol does not apply to emergency episodes, sources constructing without a valid permit, or violations of Montana standards which are not federally enforceable (e.g., fluoride-in-forage, hydrogen sulfide, etc.). In the case of emergency episodes, the seriousness of the violations will require expedited action. In the case of a source constructing without a permit, options for obtaining relief may be foreclosed by allowing the source to continue to construct and, therefore, expedited action may be essential.

II. TIMELINES FOR ENFORCEMENT ACTION

A Enforcement action schedules begin 30 days after the date of the inspection or receipt of a source self-monitoring report which first identifies the violation. This should provide sufficient time for an evaluation of the inspection or source report to determine if a violation exists. If, however, during this 30-day period, the MDHES determines that a stack test or a sample analysis is required to confirm the violation, the enforcement action schedule (clock) does not start until the date of receipt of the stack test or sample analysis report.

B. By day 45, the source should be notified by the MDHES of the violation and its need to remedy the violation. Notification shall be in written form. The source may also be advised by phone of the forthcoming notification or action.

C. By day 120, the source shall either be:

1. in compliance;

2. on an enforceable MDHES administrative or judicial order;

3. on a scheduled appeal of an MDHES administrative order to the Board of Health and Environmental Sciences; or

4. subject to a proposed SIP revision which has been scheduled for a hearing and which Region VIII Montana Office staff believes is likely to be approved.

Failure by MDHES to also seek a civil or criminal penalty in accordance with Section IV of this protocol may result in a separate or joint action by EPA.

D. MDHES will monitor conformance with any "schedule of compliance" issued in accordance with this protocol. MDHES will keep EPA informed of the violator's progress toward compliance according to established reporting requirements. If a SIP revision is initiated, EPA will monitor the progress of the revision through Montana's administrative process. If a SIP revision becomes unduly delayed, EPA will discuss this with the MDHES and may choose to initiate a parallel federal action. No formal timelines are established for this stage of the enforcement process.

E. If none of the actions specified in C. above have occurred by day 120, EPA will discuss with the MDHES the status of its actions and its expectations. If discussions suggest that Montana is near a resolution of the violation or that further deferral is otherwise appropriate, EPA will defer any action. If EPA determines that further deferral is not justified, it will proceed with its own action.

F. When EPA takes the lead in a case, it will act to get the source in compliance, on a schedule, or subject to Section 120 action or judicial referral within 120 days of its assumption of the lead. MDHES participation in the action will be encouraged, even though the lead has been assumed by EPA. The possibility of a joint action will be considered as an alternative to a unilateral EPA action where feasible.

III. ISSUANCE OF NOV'S BY EPA

A. At day 90, EPA, after consultation with MDHES on the progress of the case to date, may take one of the following actions as circumstances dictate:

1. initiate case development activities through an inspection or issuance of a Section 114 letter;

2. advise the source that EPA will issue an NOV in 30 days if the source does not reach an acceptable resolution with the MDHES before that date. (This will be used only where such an action by EPA is likely to be of significant value in prompting the source to reach an acceptable agreement with the MDHES); or

3. issue an NOV, if requested to by the MDHES, or if it is clear that a resolution will not be reached by the state by day 120 and that the environmental significance of the source warrants EPA action.

B. EPA will routinely issue NOV's on (or shortly thereafter) day 120 if the violations are not resolved according to II.C of this protocol. (NSPS sources will receive Section 113 Orders rather than NOV's.)

C. Any NOV issued on day 120 will be issued only after consultation with the MDHES. If there is some compelling reason why the NOV should not be issued, EPA will defer its issuance. However, this is not anticipated to occur in most cases.

D. Any NOV issued by EPA in accordance with A.3 or B. above will indicate that EPA is still looking to the MDHES to resolve the matter and further EPA action will be required only in the absence of an acceptable, prompt resolution.

E. If EPA finds a violation independent of the MDHES, EPA may immediately issue an NOV. (Does not apply if violations were discovered in a joint inspection.) However, prior to a decision to issue an NOV, EPA will discuss with Montana the circumstances of the violation. EPA will resolve in consultation with the MDHES who will take the lead for the source and the nature and timing of follow-up action.

F. EPA will transmit to the MDHES copies of all NOV's it issues to sources in Montana. If the violation clearly impacts upon the air quality of an adjacent state, EPA will transmit a copy of the NOV to that state as well.

IV. PENALTIES

A cash penalty of sufficient magnitude appropriate to the violation is required as an element of the resolution of the following classes of violations. If the penalty is not obtained by the MDHES, an EPA action will be brought. Also, if MDHES chooses to obtain a compliance schedule but not a penalty, a separate EPA action may be appropriate.

The classes of violations subject to this protocol for which a significant cash penalty are required are:

A. Class A SIP sources which are in or adjacent to a nonattainment area and which violate a standard limiting emissions of a pollutant for which the area is nonattainment unless it can be established that the source does not contribute to a violation of a National Ambient Air Quality Standard.

B. Class A violators of nonattainment, PSD, or NSPS requirements which continue to operate after failure to demonstrate initial compliance. (This does not apply during periods which regulations specifically allow for start-up, debugging, etc.).

C. Violators which Montana or EPA determines are repeat violators.

D. NESHAPS violators.

V. CONSULTATION AND DATA TRANSFER

A. EPA and the MDHES will conduct at least monthly consultations to discuss compliance efforts. During these discussions, information exchange relative to obtaining compliance and penalties will occur. This exchange will include at least the following items:

1. The MDHES will identify any newly-found violators subject to this protocol.

2. The MDHES will identify sources notified of noncompliance during the month consistent with Section II.B.

3. The MDHES will identify violators which the state has taken action against consistent with Section II.C., including penalties as noted in Section IV.

4. The MDHES will discuss the status of other pending enforcement actions as appropriate.

5. EPA will identify sources for which it has completed action and provide the status of other sources where action is pending or in progress.

6. EPA will identify any sources it found in violation and confer with the MDHES in accordance with Section III.D.

B. The CDS will be updated by EPA on a monthly basis, based on information provided by the MDHES, to reflect:

1. compliance status changes for newly-identified violators which are in violation on the last day of the month prior to the consultation and which were or are expected to be in that status for 7 days or more;

2. sources notified of noncompliance;

3. sources with completed enforcement actions, including any schedules and incremental dates for returning them to compliance; and

4. sources found to be in compliance with final limits.

C. Inspection results other than those affected by the above will be provided in accordance with current practices and EPA accountability system requirements.

D. EPA and Montana will share inspection results and monitoring reports for use in enforcement proceedings to the extent practicable.

Appendix D

COOPERATIVE ENFORCEMENT AGREEMENT

Between

U. S. ENVIRONMENTAL PROTECTION AGENCY

and

STATE OF MONTANA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Hazardous Waste Program

I. INTRODUCTION

This Agreement defines the relationship between the Montana Department of Health and Environmental Sciences (MDHES) and the U. S. Environmental Protection Agency (EPA) Region VIII, relative to enforcement of hazardous waste requirements in Montana and may be referred to as the hazardous waste program "Enforcement Agreement".

One of the goals of both the Resource Conservation and Recovery Act (RCRA) and the Montana Hazardous Waste Act (MHWA) is to protect human health and the environment. The EPA and DHES recognize that for this goal to be fully met, a high level of comoliance with applicable standards must be maintained within the regulated hazardous waste community. To do this requires the establishment of a credible enforcement presence by the State of Montana and EPA.

DHES has primary responsibility for the administration and enforcement of MHWA, administrative rules implementing MHWA, and policy, as recognized by EPA approval and formal authorization of the Montana hazardous waste program. EPA will act in an overview capacity relative to enforcement under the authorized program, exercising its own enforcement authority only where DHES has requested EPA involvement or when DHES's enforcement response is determined by EPA to be inappropriate or untimely. EPA retains the primary responsibility to enforce standards under the Hazardous and Solid Waste Amendments of 1984 (HSWA) until such time as such HSWA standards are approved as revisions to the Montana program under 40 CFR 271.21.

Nothing in this Agreement shall be construed to constitute a valid defense by regulated parties in violation of any Montana or Federal environmental statute, regulation, or permit, or order.

II. DHES ENFORCEMENT

DHES agrees to take timely and appropriate enforcement action against all persons in violation of MHWA, hazardous waste management rules implementing MHWA, permit conditions and all other program requirements, including violations detcted by DHES or EPA inspections. DHES will

maintain procedures for receiving and considering information about violations submitted by the public and will provide written response to all complaints duly submitted by the public.

DHES will refer to EPA suspected violations which it notes through inspection or other means for hazardous waste activities within Indian reservations, violations which are primarily interstate in nature, violations of HSWA requirements not yet included in the authorized Montana program or other violations for which an EPA enforcement response is appropriate.

DHES will deem the time-frame used by EPA in its definition of "timely and appropriate" to be general goals to strive for, for good program performance and as guidelines that EPA and DHES should use to review progress in individual cases. It is presumed that if such goals are not met, EPA may take direct enforcement action. It is mutually understood that judgment on what is a reasonable timetable for action must ultimately be case specific. Facotrs, for example, of type of violation, complex negotiation, investigation, testing, production and analysis of evidence and unique questions of law requiring additional time for case analysis shall be deemed to impact and possibly alter EPA established timetables. Emergency enforcement actions by EPA or DHES, shall likely be taken in shorter time-frames than the established time tables.

It is acknowledged that the definition of "appropriate" in Attachment D-1 shall serve as a guideline and as a common goal for EPA and DHES. Insofar as choice of response by DHES to a violation, permit revocation or cleanup orders shall be deemed acceptable as possible response actions to violations by all classes of violators when taken in a timely manner. The EPA and DHES will seek to reach an understanding on DHES's penalty rationale in accordance with the FY 1988 Montana/EPA Agreement schedule, with maximum flexibility allowed to the State. It shall be understood that there are several types of enforcement responses which may be appropriate in attaining a desired compliance result. Finally, where insufficiency of resources is cited by DHES a reason for delayed response action to a violation, EPA shall work with DHES to identify ways in which EPA can help to make up the deficiency in resources, but the insufficiency of resources shall not preclude EPA from taking direct enforcement action.

III. DIRECT EPA ENFORCEMENT

EPA may, pursuant to RCRA Section 3008(a)(2), take enforcement action against any person it has cuase to believe to be in violation of RCRA, any applicable State hazardous waste administrative rule, or any permit condition issued by either DHES or EPA, after giving notice to the DHES director in writing of EPA's intent. (Notice of EPA's intent will normally be provided first to the Solid & Hazardous Waste Bureau). Where EPA intends to take an enforcement action for a violation of a requirement of the authorized Montana program, DHES will be provided at least thirty (30) days advance written notice of such intent. The notice shall specify why EPA thinks that any action taken or proposed by DHES is inappropriate. If DHES disagrees with EPA's determination that its action is inappropriate, it may discuss this with EPA during the thirty (30) day period discussed above. If, at the end of the thirty

(30) day period no agreement has been reached as to what constitutes an appropriate enforcement action and/or DHES has not initiated an appropriate enforcement action, EPA may then initiate enforcement action. EPA also reserves the right to issue orders and bring actions under RCRA Sections 3008(h) and 3013 (after notice to DHES as provided above) and Section 7003 (after verbal or written notice to DHES).

EPA agrees to take timely and appropriate enforcement action for violation for HSWA requirements which are not as yet part of the authorized DHES program, as well as for violations occurring within Indian reservations. EPA will respond as appropriate to DHES referrals of such violations. When EPA intends to take enforcement under its HSWA authority or for violations on an Indian reservation, and when such proposed enforcement is not the result of a DHES referral, EPA will provide DHES prior written notice (normally at least 7 days) as a courtesy to the authorized Montana program.

IV. CRITERIA FOR DIRECT EPA ENFORCEMENT

A. EPA is responsible for taking enforcement action under the following circumstances:

1. For violations of HSWA requirements which have not yet been made a part of the authorized Montana program.

2. For violations which occur within Indian reservations, according to the "Indian Policy Implementation Guidance Memorandum" dated July 18, 1984.

3. For violations which are interstate in nature or will set a national precedent and for which DHES and EPA agree that a DHES enforcement action could not be as effective as enforcement by EPA.

B. EPA may take enforcement action under the following circumstances:

1. If EPA determines that DHES enforcement action is not timely and appropriate, and after the notice period specified above.

2. When requested in writing by DHES.

3. When an EPA order or consent decree has not been complied with by the date specified in the order or decree.

4. When EPA has determined that an imminent and substantial endangerment to human health or the environment exists, and after giving verbal or written notice to DHES.

V. EPA OVERSIGHT OF DHES ENFORCEMENT

The effectiveness of DHES's enforcement activities will be evaluated in EPA's general program overview. The enforcement performance of the Montana program will be evaluated on the basis of the following documents, current copies of which will be provided to DHES by EPA as revisions may occur:

1. DHES authorization application and agreements, as amended.

2. Compliance enforcement criteria as contained in the "National Criteria for Quality Hazardous Waste Management Program under RCRA", most current revision. (Exception: Timelines contained in that document are superseded by the timelines in Attachment D1 to this Agreement.)

3. The "Hazardous Waste Program Oversight Plan for Montana" (most current version).

4. The annual Montana/EPA Agreement as written to reflect the most current RCRA Implementation Plan.

VI. FEDERAL FACILITIES

If EPA responds to violations at Federal facilities, such enforcement shall be in accordance with Agency policy entitled "Federal Facilities Compliance Program--Resolution of Compliance Problems at Federal Facilities". Nothing in this Agreement shall preclude DHES from responding to violations at Federal facilities as provided for under MHWA and RCRA, consistent with the Authorization of the Montana program.

VII. PUBLIC NOTIFICATION

DHES and EPA agree to issue press releases, where appropriate, on major enforcement actions taken by either agency. EPA generated press releases will acknowledge relevant DHES actions and accomplishments.

VIII. EXPIRATION, TERMINATION AND REVISIONS

This Agreement shall continue in effect unless terminated or revised by written agreement, signed by the DHES Director and the Regional Administrator for EPA. This Agreement will be reviewed at least on an annual basis and may be updated, as appropriate.

I. EPA Definitions of "Timely and Appropriate Enforcement"

A. Enforcement Against High Priority Violators

1. Within ninety (90) days of violation discovery, the regulatory agency should take one of the following actions:

a. Issuance of the appropriate legal unit of a formal administrative enforcement action with penalties which are appropriate to the violation, or

b. Referral to the appropriate legal unit for issuance within 60 days, of a civil complaint in State or Federal district court.

2. The regulatory agency should perform follow-up inspections, record reviews, or take whatever action is necessary to certify that the facility has been returned to compliance or is progressing toward compliance under the terms of an enforceable compliance schedule.

B. Enforcement Against Class I Violators

1. Within thirty (30) days of the date of violation discovery, an initial enforcement action such as a Notice of Violation (NOV), or Warning Letter (WL) should be taken. (Or an Administrative Order (AO) or civil complaint may be issued within ninety (90) days of violation discovery in lieu of an NOV or WL).

2. Within ninety (90) days of the date of the initial enforcement action, the regulatory agency should take whatever action is necessary to certify that the facility has returned to compliance or is progressing toward compliance on an enforceable schedule.

3. If the source is not in compliance at the time of this compliance evaluation, then the regulatory agency should:

a. Refer the case to the appropriate legal unit within ninety (90) days of compliance evaluation;

b. Issue a Compliance Order within sixty (60) days (if not issued previously) of compliance evaluation; or

c. Enter into a Compliance Agreement with an enforceable schedule for compliance within sixty (60) days of compliance evaluation.

C. Enforcement Against Class II Violators

Event	Day
Violation Discovery	0
Warning Letter	60
Compliance Achieved and Documented	90
[or]	
NOV/AO Issued	120
Date of Required Compliance	As Specified in AO

II. EPA Definition of "Violation Discovery"

A violation is discovered as of the date when the case development staff determines through review of the inspection report correspondence and/or data that a violation has occurred. The average time for the date of discovery from the date of inspection or record review is thirty (30) days. Where there are more complicated situations, for example, where chemical analysis of samples is required, the timeframe may be greater.

III. EPA Classification of Violations and Violators

The RCRA program employs several terms for defining priorities for enforcement response.

The program classifies individual violations into one of two Classes:

Class I Violation - a violation that results in a release or serious threat of release of hazardous waste to the environment, or involves the failure to assure that groundwater will be protected, that proper closure and post-closure activities will be undertaken, or that hazardous wastes will be destined for an delivered to permitted or interim status facilities.

Class II Violation - any violation of hazardous waste requirements that does not meet the criteria listed above for Class I violations.

Further, a hazardous waste handler is classified based upon the nature of its collection of violations and various additional factors such as compliance history. The designations of handlers are as follows:

High-Priority Violator - a handler who:

has one or more Class I violations of the groundwater, closure/post closure, and financial responsibility requirements, or

poses a substantial likelihood of exposure to hazardous waste or has caused actual exposure, or

has realized a substantial economic benefit as a result of noncompliance, or

is a recalcitrant or chronic violator (including a handler who is violating schedules in an order or decree).

Class I Violator - a handler with one or more Class I violations who is not a "high'priority violator".

Class II Violator - a handler who has only Class II violations.

Appendix E

COOPERATIVE ENFORCEMENT AGREEMENT

Between

U.S. ENVIRONMENTAL PROTECTION AGENCY

and

STATE OF MONTANA
DEPARTMENT OF AGRICULTURE

Pesticides Program

RELATING TO the cooperative enforcement of the laws enacted by the United States of America and the State of Montana to protect man and the environment from unreasonable hazards associated with pesticide production, sale and use.

I. Preamble.

The Regional Administrator, U. S. Environmental Protection Agency Region VIII and the Director of the Department of Agriculture of the State of Montana hereby enter into this Cooperative Enforcement Agreement. This Agreement sets forth each agency's responsibility for the cooperative enforcement of the laws enacted by the United States of America and the State of Montana to protect human health and the environment from the improper use and illegal sale of pesticides. Both agencies agree that cooperative pesticide enforcement is necessary and desirable to assure the efficient allocation of public funds, to minimize duplication of enforcement efforts and to more appropriately respond to pesticide emergencies, accidents, and unusual enforcement needs. This Agreement recognizes the primary enforcement responsibility of the Montana Department of Agriculture as defined in Section 26 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended.

II. Program Elements.

The Montana Department of Agriculture agrees to conduct the following program elements:

A. Inspection Procedures, Sampling Procedures, and Sample Integrity.

All investigations, and all sampling will be conducted in accordance with the Montana Pesticide Act (Title 80, Chapter 8, MCA), and the Department's field and laboratory procedures manuals, utilizing inspection forms equivalent to those contained in the EPA Pesticides Inspection Manual. Sample integrity will be maintained during collection, transport, storage, and analysis according to the quality assurance plans acopted by the Department and approved by EPA.

B. Cooperative Enforcement Action.

EPA's enforcement role is shifting from a primary focus on performing inspections and taking enforcement actions to an emphasis on conducting

reviews and evaluations and providing states with guidance and technical assistance in order to assure adequate performance of state compliance and enforcement programs.

The Congress of the United States has charged EPA to delegate responsibility for administering most environmental programs to the states as they demonstrate the desire and capability to assume primacy. The Congress, however, continues to hold EPA accountable for ensuring that its laws are carried out according to its intent.

The relationship between EPA and delegated states is intended to be a partnership. Both EPA and the states have continuing roles and responsibilities under delegated programs that are most effectively planned and executed together. States are better suited to address specific problems as they arise on a day-to-day basis, and EPA should strive to strengthen and assist state programs.

EPA also has a role as a partner to the state to serve as a back-up in enforcement areas by providing direct enforcement actions when needed. Region VIII will endeavor to assist state compliance and enforcement programs when requested. EPA may also take independent enforcement action in those cases where a state demonstrates it is not willing to establish a strong enforcement presence or is unable to do so due to a lack of necessary resources or requisite legal authority under the providions of Section 26 and 27 of FIFRA.

It is agreed that when evidence collected reveals a possible violation of only the Montana Pesticides Act, only the Montana Department of Agriculture will pursue remedies for such violations as provided for in the Montana Pesticides Act. Where such evidence reveals a possible violation of both Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Montana Pesticides Act, the Montana Department of Agriculture shall have primary enforcement responsibility for pesticide use violation enforcement. EPA will refer all pesticide use complaints to the Department for investigation. Pursuant to the Agency's final interpretive rule regarding Section 26 of FIFRA, cases deemed by EPA to be "significant cases" will be so designated and the disposition of such cases will be monitored by EPA. If within 30 days after receipt of a complaint referral from EPA, the State has not initiated an investigation, EPA may conduct its own investigation of the complaint. If, within thirty days after completion of the investigation of a complaint referral, the State has not commenced appropriate enforcement action, EPA may act upon the violation to the extent authorized by FIFRA as amended. At the option of the State, complaints or violations may be referred to EPA Region VIII Montana Office for action. In any pesticide investigation on Federal or Indian Lands where the State is not sure of its jurisdiction, the case will be referred to EPA, Region VIII Montana Office for action.

In those cases where there is a lack of agreement over who should take action, which cannot be resolved at the program level, the issue will be referred to the EPA Regional Administrator and the Director of the Department of Agriculture. In rare cases if clearly unacceptable performance by a state which show lack of good faith or capacity on the part of a state to correct problems, EPA is prepared to take back a delegated program. Taking back

delegated responsibilities, however, must occur in a consistent and predictable manner, under pre-defined conditions and circumstances and in accordance with Section 27 of FIFRA.

Under Section 26 of FIFRA, EPA does not have authority to delegate primary enforcement responsibility for any area of enforcement except pesticide use. The Department has been delegated primacy for pesticide use enforcement. Pesticide use enforcement consists of ensuring compliance with the applicator certification requirements and with all labeling requirements. It is made up of two types of inspections: use inspections and misuse inspections. Misuse inspections are initiated in response to complaints, damage reports, or referrals when there is reason to believe that a violation has occurred whether or not it is actually proven. A use inspection may be initiated as an observation of an actual pesticide application or as an inspection following an application when there is no reason to believe that a violation is occurring.

Pesticide use enforcement for reporting and grant purposes, includes monitoring the use of pesticides under Section 5, 18, and 24c of FIFRA. The monitoring of experimental use permits (Section 5) and emergency exemptions (Section 18(will involve inspecting users and distributors to ensure that the terms of the permit as well as the labeling are adhered to. EPA, however, has the final responsibility for ensuring that the terms of an emergency exemption are complied with and cannot, by the nature of the exemption process, delegate that responsibility.

Section 23 of FIFRA authorizes EPA to cooperate with states in the enforcement of FIFRA in areas other than use. The Department agrees to accept the responsibility of conducting non-use related inspections as described below and to take corrective enforcement action.

1. Certified Commercial Applicator License and Records Inspections.

   These types of inspections are conducted at the certified commercial applicator's place of business or in accordance with Rule 4.10.207 of the Administrative Rules of Montana (ARM). The purposes of these inspections are to determine if the applicator is properly certified and licensed, is maintaining the required records, is making application only in the uses for which he is certified, and to determine if his records show that his applications have been in compliance with all applicable laws and regulations.

2. Restricted-Use Pesticide Dealer Records Inspections.

   These types of inspections are conducted on-site at dealers who sell restricted-use pesticides or in accordance with Rule 4.10.504 ARM. The purposes of these inspections are to determine if the dealers are properly licensed and are maintaining the required records, and to review the dealers' records to determine if restricted-use pesticides are being sold only to certified applicators or other properly authorized persons.

3. Marketplace Inspections.

Marketplace inspections are inspections conducted at the retail or wholesale level for the purpose of determining product registration status, proper storage and display, any labeling violations, and any product decomposition. Marketplace inspections should be given a low level of priority unless product violations rates and compliance ratios show that such inspections will prevent significant harm.

The Department will also monitor the disposition of chemicals which have been cancelled or suspended. Pesticide disposal practices which are suspected violations of the Montana Hazardous Waste Act (Title 75, Chapter 10, part 4, MCA) will be addressed in accordance with the memorandum of understanding on Enforcement, Regulation and Management of Waste Pesticides and Containers (July 1983) between The Montana Department of Agriculture and The Department of Health and Environmental Sciences.

The responsibilities of the State under this subsection B will be reviewed on a semi-annual basis by EPA. EPA will maintain an "oversite" program whereby EPA personnel may accompany individual State inspectors on various types of inspections to coordinate and improve actual investigation procedures.

The Montana Department of Agriculture will notify the Pesticide Program Manager, EPA Region VIII Montana Office, within one week of the discovery of any suspected violations of the FIFRA which do not fall within the State's delegation. The Program Manager will confirm the existence of FIFRA violations and will maintain liason with the State on the disposition of the case.

If requested by the State, EPA and the Department of Agriculture will establish a program to provide training for Montana's inspectors, chemists and legal staff in areas of pesticide sampling, analysis and enforcement consistent with EPA practices and procedures.

The results of all chemical analyses performed under this Agreement, and the quality and sufficiency of all other evidences gathered in the course of any of the inspectional or investigatory activities are reviewed by the Department of Agriculture according to the Departments field and laboratory quality assurance and procedures manuals. When this review reveals evidence of a violation of any provision of the Montana Pesticides Act or of the FIFRA, the Director shall accumulate, organize, and document all substantial and relevant evidence. Where EPA and the Montana Department of Agriculture determine that EPA shall be a party to an enforcement action based upon evidence collected, the Montana Department of Agriculture file shall be made available to the designated EPA attorney, Region VIII.

C. Reports.

The Montana Department of Agriculture shall submit, all reports to the State program manager at EPA Region VIII Montana Office, according to the

commitments and time frames specified in the annual workplan in the STATE/EPA Agreement (SEA). EPA Region VIII Montana Office shall prepare and submit to the Department of Agriculture draft and final written evaluations of the Departments midyear and end of year performance. Such review by EPA will specifically consider:

1. The number of inspections in each inspectional category;

2. The future performance of any overdue commitments;

3. The actual accomplishments made by the Department;

4. Those areas in which performance and cooperation by the Department or the EPA may be improved.

Information acquired through the Department of Agriculture enforcement and technical programs is provided to the Montana Cooperative Extension Service through a cooperative agreement in order to update and improve the States pesticide applicator and dealer training courses. The Department of Agriculture is also encouraged to study the impacts of pesticides in the environment as they relate to enforcement matters.

III. General Conditions.

It is mutually agreed that each agency shall:

A. Maintain a close working relationship and exchange information relative to the agencies' planned pesticide surveillance/enforcement activities;

B. Coordinate investigations and enforcement actions involving violations of both the FIFRA and the Montana Pesticides Act to avoid duplication of effort;

C. Perform its inspectional, analytical and case preparation activities in a manner designed to assure sample integrity, chain of custody, the use of standard methods of analysis, the sufficiency and adequacy of the evidence, and the violator's right to administrative due process;

D. Periodically meet with the other agency to evaluate the performance of each agency with regard to the procedural, planning or surveillance elements of this Agreement.

Nothing in this Cooperative Enforcement Agreement modifies other existing agreements except as specified, nor does it preclude entering into separate agreements which set forth procedures for special programs which can be handled more efficiently and expeditiously by such special agreement.

Nothing in the Cooperative Enforcement Agreement is binding on the State of Montana if sufficient funds are not provided by EPA to allow the State to carry out the agreed upon functions. Also, provided that the Department is

carrying out the agreed upon functions in a manner satisfactory to EPA, the latter will not perform similar functions in the State.

Nothing in this Cooperative Enforcement Agreement is intended to usurp the authority of EPA to commence enforcement actions for alleged violations of the FIFRA. Similarly, nothing in this Agreement is intended to usurp the authority of the State of Montana to commence enforcement actions for alleged violations of the Montana Pesticides Act.

This Cooperative Enforcement Agreement, when accepted by both parties, shall continue in effect unless modified by the mutual written consent of both parties or terminated by either party upon a thirty (30) day advance written notice to the other.

ATTACHMENT E-1

Formal EPA Referrals Agreement
on
Pesticide Misuse Situations for FY 88

1. Those significant use complaints received by EPA, from sources other than the Department of Agriculture, which meet the conditions set forth in this document may become referrals under Section 26 and 27 of FIFRA.

2. A formal referral must include at a minimum, the following information: name of complainant, address, telephone number, date of complaint, name of individual receiving complaint, details of the complaint, why the referral is significant, and how it meets these conditions set forth in this Agreement. EPA must also provide the names of other parties it has contacted concerning the complaint.

3. Specific conditions which determine if a complaint is significant may include all or one of the following items:

a. Human Health - Death or any pesticide illness requiring medical treatment by a physician.

b. Endangered Species - one or more endangered species; death, illness or significant exposure.

c. Food and Water - Food or water, for immediate human consumption, is or is alleged to be or may become contaminated at or above established federal tolerance levels or other recognized standards.

d. Economic Loss - (crop or domestic livestock) over $3,000 (estimate by complainant).

e. Illegal use of a cancelled or suspended pesticide.

4. Complaints referred to the state by EPA which do not meet the above conditions are not formal referrals.

Transmittal of complaints from EPA to the state shall be accomplished in the following manner:

a. Initial contact shall be with the Field Services Bureau Chief, 444-2944, or if he is not available the following individuals may be contacted in the order presented:

Administrator, Environmental Management Division - 444-2944
Technical Services Bureau Chief - EMD - 444-2944
Deputy Director - 444-3144
Director - 444-3144

b. The EPA primary contact will be the Montana Operations Office Pesticides Program Manager - 449-5414. The EPA secondary contact will be the Montana Operations Office Chief of the Air, Water, Pesticides and Indian Programs - 449-5486.

c. Negotiations on all aspects of referrals shall be managed by the Administrator of the Environmental Management Division of the Department and by the Chief of Air, Water, Pesticides and Indian Programs of the Environmental Protection Agency. If resolution is not possible, then the Director of the Department and the Director of the Montana Operations Office may negotiate the final decision.

5. These referral conditions and guidelines will be reviewed as part of the development of the FY 89 SEA and all parts will be open to negotiations.